

ARTICLE 3 SEWAGE AND WATER DISPOSAL

SEC. 6-301. GENERAL PROVISIONS; PURPOSE AND POLICY.

(a) This article sets forth uniform requirements for direct and indirect contributions into the City of Fresno POTW, and enables the city to comply with all applicable State and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 C.F.R., Part 403) and the Construction Grants Regulations (40 C.F.R., Part 35), as they are now constituted, or as they may hereafter be amended or recodified. The objectives of this article are:

(1) To prevent the introduction of pollutants into the POTW, which would interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the POTW, which would pass through the system inadequately treated or be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(4) To provide for equitable distribution of the cost of the POTW.

(b) This article provides for the regulation of direct and indirect contributors to the POTW through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(c) This article shall apply to the City of Fresno and to persons outside the city who are, by contract, permit or agreement with the city, users of the city's POTW. (Am. Ord. 83-41, § 1, eff. 7-1-83; Am. Ord. 98-97, §§ 1, 2, 1-9-99)

SEC. 6-302. DEFINITIONS. Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Article 3 of Chapter 1 of this Code shall also govern the construction, meaning, and application of words and phrases used in this article, unless the particular provision or the context otherwise requires. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derived from it, or from which it is a derivative, as the case may be.

(a)

(1) The following Abbreviations shall have the designated meanings:

CWA	Clean Water Act as Amended (33 U.S.C. §§1251
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C.F.R.	Code of Federal Regulations
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act (42 U.S.C. §§6901 et seq.)
U.S.C.	United States Code

(2) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, as amended (33 U.S.C. §§1251 et seq.).

(3) "Approval Authority" means the California Regional Water Quality Control Board, Central Valley Region.

(4) "Authorized Representative of Industrial User" means:

(i) A responsible corporate officer, if the industrial user is a corporation. A responsible corporate officer means:

1. a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function or any other person who performs similar policy-making or decision-making functions for the corporation; or,

2. the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) a general partner or proprietor, if the industrial user is a partnership or sole proprietorship, respectively;

(iii) a duly authorized representative of the individual designated in Subsection (a)(4)(i) or (a)(4)(ii), provided:

1. the authorization is made in writing by the individual designated in Subsection (a)(4)(i). or (a)(4)(ii);

2. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the indirect discharge originates, or having overall responsibility for environmental matters for the company; and

3. the written authorization is submitted to the Control Authority.

(iv) If an authorization under Subsection (a)(4)(iii) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Subsection (a)(4)(iii) must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

(b)

(1) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general prohibitions, specific prohibitions, and local limits listed in this Code. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(2) "Biochemical Oxygen Demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under Standard Laboratory Procedure in five days at twenty degrees Centigrade, expressed in milligrams per liter (mg/L).

(3) "Biosolids" or "sludge" means a primarily organic solid product produced by wastewater treatment processes that can be beneficially recycled.

(4) "Building" means any structure used or intended for supporting or sheltering any use or occupancy as determined by the Director.

(5) "Business" means all commercial uses, including but not limited to offices, merchandising and industrial uses, and residential uses on premises where there are four or more living units or where unrelated persons are housed in the same structure, such as boarding or, fraternity houses, assisted care facilities, motels or hotels, or as determined by the Director.

(c)

(1) "Capital Component" refers to a component of the user charge used to recover the cost to construct treatment facilities, pump, or lift stations, and trunk sewer mains. In all cases, 100 percent of the capital component is due from each connection served by the regional wastewater system regardless of primary service provider. The City of Clovis is excepted.

(2) "Categorical Pretreatment Standard" or "Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter I, Subchapter N, Parts 401-471.

(3) "City" means the City of Fresno.

(4) "City Effluent Limitations" means the technically-based limits, expressed either as concentration or as mass, of those pollutants found in Section 6-327 of this article.

(5) "City Sewer System" means all facilities for collecting and transporting domestic or industrial wastes of any nature, including all such facilities both inside and outside the city limits which are owned, operated and controlled by the city.

(6) "Commercial User" means all retail stores, restaurants, office buildings, laundries, and other private business and service establishments, including churches and lodges. These users are distinguished from industrial users for billing purposes only.

(7) "Completion" means acceptance, in writing, by the Director for maintenance of an addition to the city sewer system.

(8) "Compliance Schedule" means a detailed time schedule of specific actions which a user is required to take in order to prevent or correct a violation of any prohibitions or limitations prescribed herein or any of the city's effluent limitations or pretreatment standards promulgated in accordance herewith.

(9) "Connected" means a physical joinder of any plumbing or drainage system or fixture contained in any structure to the regional sewer system.

(10) "Control Authority" means the City of Fresno Department of Public Utilities and Wastewater Management Division and its representatives or designees.

(11) "Cooling Water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(12) "Customer" means a person who is, or who has agreed to be, responsible for the payment of water or sewer service charges. "Customer" is also synonymous with "account," against which charges are assessed and billed.

(d)

(1) "Director," unless otherwise specified, means the Director of the Department of Public Utilities and/or his/her authorized representative.

(2) "Dwelling Unit" means the same as living unit.

(e)

(1) "Enforcement Response Plan" or "ERP" means the mechanism for addressing applicable local, State, or federal violations. The ERP includes a written description of each type of enforcement, when to administer it, and how the monitoring schedule is affected. In conjunction with the written description, there may be an Enforcement Response Plan flow chart which maps out the path through the various levels of enforcement.

(2) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency. Where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(3) "Existing Food Service Establishment" or "Existing FSE" shall mean any Food Service Establishment that has been in continuous operation since before the effective date of this ordinance under the same ownership.

(4) "Extra Depth Sewer" means an oversize sewer main which is constructed at a depth greater than eight feet. Eight feet shall mean the average of depths, measured at adjacent manholes, from the natural grade or street subgrade, whichever is less, to the sewer flow line.

(f)

(1) "FOG" shall mean fats, oils and grease.

(2) "Food Service Establishment" or "FSE" means any facility defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity discharging into the city sewer system and is consequently regulated by the Control Authority, either directly or indirectly through a Joint Powers Agreement, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a mechanical exhaust ventilation system, as required in CURFFL Section 114296. A limited food preparation establishment is not considered a Food Service Establishment when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount

of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

(g)

(1) "Grab Sample" means a sample which is taken from a waste stream on a one-time basis, with no regard to the flow in the waste stream, and without consideration of time.

(2) "Grease Interceptor" means a multi-compartment device that is constructed in different sizes and is generally required to be located, according to the California Plumbing Code, underground between a Food Service Establishment and the connection to the sewer system. This device primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. This device must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner at regular intervals to be effective.

(3) "Grease Removal Device" means any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system. Grease Removal Device may also include any other proven method to reduce FOG subject to the approval of the Director. A grease removal device is a form of pretreatment and as such is subject to all regulations pertaining to the installation and maintenance of pretreatment systems as recognized in this Article and in the General Pretreatment Regulations (40 C.F.R. §403).

(4) "Grease Trap" means a grease control device that is used to serve individual fixtures and have limited effect and should only be used in those cases where the use of a grease interceptor or other grease removal device is determined to be impossible or impracticable.

(h)

(1) "Holding Tank Waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(2) "Hot spots" means areas in sewer lines that have experienced Sanitary Sewer Overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.

(3) "House Branch Sewer Charge" means a fee charged against property for the right to connect to a house branch sewer line, when the property has not participated in the cost of constructing said house branch.

(i)

(1) "Improvement" means that which is built or constructed, an edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. For the purpose of this article, this definition shall not include "building" as defined above and temporary on-site storm basins, but shall include the playing area of any non-enclosed sport facility or restricted sport field.

(2) "Indirect Discharge" or "Discharge" means the discharge or the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. §§1317(b), (c), or (d)).

(3) "Industrial User" or "User" means a source of indirect discharge.

(4) "Industrial Wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.

(5) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

(i) Inhibits or disrupts the POTW, its treatment processes or operations, or sludge processes, use or disposal; or

(ii) Is a cause of a violation of any requirement of the POTW's Waste Discharge Requirements (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act (33 U.S.C. §1345); the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(j) Reserved.

(k) Reserved.

(l)

(1) "Lateral Sewer Charge" means a fee charged against property for the right to connect to the public sewer line city sewer system where the property has not participated in the cost of constructing said line sewer mains.

(2) "Living Unit" means a room or suite of rooms which is occupied by one family for living and sleeping purposes, including a single-family residence, mobile home unit, apartment, town house, flat or condominium.

(3) "Living Unit Equivalent" means the equivalence of five (5) living units to one net acre of nonresidential development to compute the availability of the regional sewer system to a premises for the purpose of required connection to the regional sewer system.

(4) "Lot" means any premises, piece or parcel of land or property as bounded, defined or shown upon the latest map, plat or deed recorded in the office of the Recorder of Fresno County, provided, however, that in the event any building or improvements appurtenant to said building cover more area than a "lot," as herein defined, the term "lot" shall be deemed to be and include all such pieces or parcels of land upon which said buildings or improvements are wholly or partly located.

(m) Reserved.

(n)

(1) "Net Area," for the purpose of calculating the Lateral Sewer Charge and the Oversize Sewer Charge, shall be that area of a lot up to a maximum depth of 100 feet from adjacent dedicated right-of-way in which a regional sewer system sewer main is either constructed or planned to be constructed. Net area shall exclude areas dedicated or condemned for public street and alley purposes. Where such main is not located in an existing dedicated right-of-way, or for lots within cul-de-sacs unified or planned developments, or other unusual lot configurations, the Director shall determine the net areas consistent with the above.

(2) "New Food Service Establishments" or "New FSE" shall mean any Food Service Establishment that starts operations after the effective date of the FOG Ordinance regardless whether in a newly constructed building, a remodeled building or using an existing building or space.

(3) "New Source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated, and in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new

facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(o)

(1) "Off-site Sewer" means a public sewer constructed or to be constructed outside the extended boundaries of a subdivision or outside the extended edges of a lot.

(2) "Open Recreation and Sport Use" means, but is not limited to, golf courses, baseball diamonds, soccer and football fields, non-enclosed sport stadia, and any other restricted sports field. For the purpose of this article, the open recreation and sport use facilities must:

(i) Be accessible to the general public on a free or standard fee basis;

(ii) Comprise at least seventy-five percent (75%) of the net land area of the development as determined by the Director;

(iii) Be situated on a separate parcel or parcels which do not include facilities unrelated or incompatible with such use, as determined by the Director; and,

(iv) Be substantially improved and maintained with turf or surface conditions consistent with such use.

(3) "Operations and Maintenance Component" or "O&M" refers to a component of the user charge used to recover costs associated with the maintenance of the POTW.

(4) "Oversize Sewer Charge" means a fee for the right to connect to the city sewer system, said fee to be used to pay the additional cost of constructing or reconstructing city sewers larger than eight inches in diameter.

(p)

(1) "Pass Through" is a discharge which exits the POTW in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the POTW's waste discharge requirements (including an increase in the magnitude or duration of a violation) or threatens, or is a potential threat, to pollute or degrade groundwater.

(2) "Person" means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives or agents. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(3) "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in gram equivalents per liter of solution.

(4) "Pollutant" means any dredge soil, solid waste, incinerator residue, sewerage, garbage, sewage sludge, biosolids, munitions, wood products and wastes, chemicals, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, commercial, municipal, and agricultural waste discharged into water.

(5) "Pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(6) "Premises" means all contiguous property under one ownership, any part of which is developed to be used for occupancy, business, public gathering or meeting place purposes.

(7) "Pretreatment" and "Treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 C.F.R. §403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. §403.6(e).

(8) "Pretreatment Requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

(9) "Pretreatment Standards" or "Standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

(10) "Prohibited Discharge Standards" or "Prohibited Discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in 40 C.F.R. §403.5 and in Section 6-327 of this Article.

(11) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by Section 212 of the Act (33 U.S.C. §§1292 (2)(A)), which is owned by the municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances (also referred to as the city sewer system) only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the

Act (33 U.S.C. §§1362(4)), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(12) "POTW Treatment Plant" or "Treatment Plant" means that portion of the POTW designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(q) Reserved.

(r)

(1) "Regional Sewer System" means all facilities for collecting and transporting domestic or industrial wastes of any nature, including all such facilities both inside and outside the city limits regardless of whether they are owned, operated or controlled by the city, but not including those facilities owned and operated by the City of Clovis.

(2) "Remodel" shall mean any construction or other activity to make over a building, interior or exterior, in style or structure that costs fifty thousand dollars (\$50,000) or more in total costs.

(s)

(1) "Sanitary Sewer Overflow" or "SSO" means an overflow from the sanitary sewer system of domestic wastewater, as well as industrial and commercial wastewater.

(2) "Sewer Connection Charges" means and includes the "oversize sewer charge," "lateral sewer charge," "house branch sewer charge," which may be applicable to any lot, "wastewater facilities charge," which may be applicable to any residential lot, and "trunk sewer charge," which is applicable to any residential lot within a designated trunk sewer service area.

(3) "Sewer Facility Charges" means a user charge that includes the "wastewater facilities charge," which may be applicable to any business, and the "trunk sewer charge," which may be applicable to any business within a designated trunk sewer service area.

(4) "Sewer Flow" means the average daily flow introduced into the regional sewer system from a business during a billing period.

(5) "Sewer Loading" means the amount of total suspended solids and biochemical oxygen demand in a wastewater sample.

(6) "Sewer Service Charges" means a user charge which is comprised of a capital component, and an operational and maintenance component and, a pretreatment surcharge as designated in the Master Fee Schedule.

(7) "Shall" is mandatory, and "may" is permissive.

(8) "Significant Industrial User"

(i) Except as provided in Subdivision (s)(8)(iii) the term "Significant Industrial User" means:

1. all industrial users subject to categorical pretreatment standards under 40 C.F.R. §403.6;

2. any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

3. any industrial user that contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;

4. any industrial user designated as such by the Control Authority on the basis that the industrial user has reasonable potential of adversely affecting the POTW operation or for violating any pretreatment standard or requirement.

(ii) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 C.F.R. §403.6 and 40 C.F.R. chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

1. the industrial user, prior to Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

2. the industrial user annually submits the certification statement required in 40 C.F.R. §403.12(q) together with any additional information necessary to support the certification statement; and

3. the industrial user never discharges any untreated concentrated wastewater.

(iii) Upon finding that an industrial user meeting the criteria of Subparts (8)(i)2-4 has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time determine that such industrial user is not a significant industrial user.

(9) "Significant Noncompliance" means a compliance status in which an industrial user has a violation which meets one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH;

(iii) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 C.F.R. §403.8(f)(1)(vi)(b) or Section 6-324 of the this Code to halt or prevent such a discharge;\

(v) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report non-compliance;

(viii) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

(10) "Slug" or "Slug Load" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

(11) "Standard Industrial Classification" or "SIC" means a classification pursuant to the latest published edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

(12) "Standard Methods" or "Standard Laboratory Procedure" means the EPA approved procedure outlined in the latest edition approved by the EPA of the book, "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

(13) "State" means the State of California.

(14) "Storm Water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

(t)

(1) "Total Suspended Solids" or "TSS" means the total suspended matter that floats on the surface of, or is suspended in, wastewater and which is removable by laboratory filtering as prescribed by Standard Methods.

(2) "Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provision of Section 307(a) of the Act (33 U.S.C. §1317(a)), or other acts.

(3) "Trunk Sewer Charge" means a sewer flow-based capacity charge for the right to connect to the city sewer system. The charge shall be used for the purpose of constructing or recovering such cost for construction of new sewer pipelines thirty inches in diameter or larger. Trunk Sewer Charges shall be collected from all residential development pursuant to Subsection 6-304(a)(5), and for all businesses pursuant to Section 6-310.

(4) "Trunk Sewer Main" means a public sewer main thirty inches in diameter or larger constructed to collect and transport domestic or industrial wastes of any nature to the POTW treatment plant or to another trunk sewer main transporting such wastes to the treatment plant.

(5) "Trunk Sewer Service Areas" means those areas established by resolution of the Council served by a trunk sewer main and subject to trunk sewer charges.

(6) "Twenty-five percent (25%) Rule" means a requirement for grease interceptors to be maintained such that the combined FOG and solids accumulation does not exceed twenty-five percent of the design hydraulic depth of the grease interceptor.

(u)

(1) "Unit" means a living unit as defined herein for residential uses, or living unit equivalent for other than residential uses.

(2) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or city effluent limitations because of factors beyond the reasonable control of an industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(v) Reserved.

(w)

(1) "Wastewater Discharge Permit" or "Control Mechanism" means the mechanism by which new or increased contributions of pollutants, or changes in the nature of pollutants, to the regional sewer system by industrial users, may be controlled to ensure compliance with applicable pretreatment standards, pretreatment requirements, or city effluent limitations.

(2) "Wastewater Facilities Charge" means a sewer flow and sewer loading based charge for the right to connect to the regional sewer system. The charge shall be used for the purpose of recovering the cost of constructing or construction of facilities at the POTW treatment plant.

(x) Reserved.

(y) Reserved.

(z) Reserved. (Orig. Ord. 4279; Am. Ord. 5777, 1960; Am. Ord. 6466, 1964; Am. Ord. 69-41, 1969; Am. Ord. 71-105, 1972; Am. Ord. 72-170, 1972; Am. Ord. 73-64, § 1, eff. 5-20-73; Am. Ord. 75-69, §§ 2, 3, eff. 7-27-75; Am. Ord. 80-59, §§ 1--4, eff. 5-9-80; Am. Ord. 80-164, §§ 1--3, eff. 12-5-80; Am. Ord. 82-22, § 1, eff. 3-19-82; Am. Ord. 83-41, § 2, eff. 7-1-83; based on former Sec. 9-501; Am. Ord. 87-29, § 1, eff. 3-17-87; Am. Ord. 89-10, § 1, eff. 2-17-89; Added and Am. Ord. 90-84, §§ 1--4, eff. 8-31-90; Am. Ord. 91-14, §§ 1--5, eff. 3-15-91; Am. Ord. 92-69, §§ 1--5, eff. 9-25-92; Am. Ord. 94-10, §§ 1, 2, eff. 3-11-94; Ord. No. 96-62, §§ 1, 2, eff. 10-25-96; Am. Ord. 98-91, §§ 1, 2, 1-1-99; Am. Ord. 98-97, §§ 2.5, 3, 1-9-99; Am. Ord. 2002-73, § 1, eff. 1-23-02; Am. Ord. 2003-75, § 1, eff. 10-5-03; Am Ord. 2008-33, eff. 6-22-08).

SEC. 6-303. SEWER CONNECTION REQUIRED.

(a) Every building or structure in which plumbing fixtures are installed, and every premises having piping thereon, which conveys sewage or other liquid wastes to an approved point of disposal, shall be connected to the regional sewer system if it is available, except that:

(i) In the R-A, AE-5, and AE-20 zone districts, on a lot at least two net acres in size, and provided the lot, if not served by a community water system, contains one

dwelling unit or septic system per 2.0 acres, such connection may be deferred until the use of the land changes either through district amendment or special permit.

(b) The regional sewer system is available, for the purposes of this section, if a sewer main has been constructed and is available for use in any public street, alley or right-of-way within 100 feet for the first unit plus 50 feet for each additional unit, to be measured along such public street, alley or right-of-way from the nearest property line to the sewer main. For the purpose of this section, the number of units computed shall include all units developed on contiguous property held under one ownership.

(c) Notwithstanding any provision to the contrary, buildings or structures, connected to a septic tank or cesspool at the time the regional sewer system becomes available, shall be connected to the regional sewer system within three years after the regional sewer system becomes available or, if the property has previously been subject to an earlier connection date by reason of requirements of a jurisdiction other than the city, then said connection shall be made on or before said earlier date, provided that if the Director determines the continued use of the septic tank or cesspool will create an immediate health menace, the property shall be connected within the time specified by the Director. Buildings or structures not connected as required by this section are public nuisances.

(d) No person shall cause, suffer or permit the disposal of sewage, or other liquid wastes into any drainage system on any lot which is not connected the regional sewer system when such connection is required by this section.

(e) Cemeteries will not be subject to the requirements of Section 6-303, except that any facilities used for other than cemetery purposes and separate major maintenance facilities fronting a public street shall be required to connect to the city sewer system subject to the availability of sewers as provided in Section 9-502. (Orig. Ord. 4726; Am. Ord. 5415, 1958; Am. Ord. 5777, 1960; Am. Ord. 6466, 1964; Am. Ord. 6882, 1966; Am. Ord. 6889, 1966; Am. Ord. 82-100, § 1, eff. 10-15-82; Am. Ord. 85-22, § 1, eff. 3-22-85; Am. Ord. 98-87, §§ 4, 5, 1-9-99)

SEC. 6-304. PERMIT REQUIRED AND PAYMENT OF SEWER CONNECTION CHARGES.

(a) No person shall connect any lot to the city sewer system without a permit from the Director of Development. No permit shall be issued by the Director of Development unless the following sewer connection charges, when applicable, have been paid:

(1) Lateral Sewer Charge. A Lateral Sewer Charge shall be required for each lot sought to be connected to the city sewer system based on the net area of such lot, in the amount per square foot as designated in the Master Fee Resolution.

Notwithstanding the above:

(i) Property, which has not previously had city sewer service, shall pay a Lateral Sewer Charge only to the extent that such Lateral Sewer Charge or the cost of the main serving the premises has not heretofore been paid by the applicant or his predecessor in interest.

(ii) Where the applicant is required to extend a sewer main across his property frontage as a condition precedent to receiving service, no such charge

shall be collected for that portion of the frontage adjacent to the main which the applicant is required to extend.

(iii) When only a portion of a lot is developed and the remaining portion is to continue undeveloped or is to be used solely for the growing of agricultural crops, the Director may require the payment of the Lateral Sewer Charge applicable only to that portion of the lot developed or to be developed. When the balance of the lot is developed, the Lateral Sewer Charge on that portion shall be paid regardless of whether additional sewer service is required. The Director shall fix the portion of the lot that is to be considered as developed.

(iv) Properties, on behalf of which no contribution has been made to the cost of the sewer mains and which receive service from sewer main extensions made in other than dedicated and surfaced streets, shall pay to the city the same Lateral Sewer Charge as would be payable if the sewer main were located in a dedicated street adjacent to the property to be served.

(v) In the R-A, AE-5 and AE-20 zone districts on a developed lot at least two net acres in size, when a portion not fewer than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence or the existing residence is to be connected to the city sewer system, the Director may require the payment of the Lateral Sewer Charge applicable only to the portion of such lot to be improved or occupied by the existing residence to be connected to the city sewer system. When the land use on the balance of the lot changes either through district amendment or special permit, the Lateral Sewer Charge shall be paid regardless of whether or not additional sewer service is required. The Director shall fix the portion of such lot which is to be considered as improved or occupied.

(vi) For separate maintenance facilities within cemeteries and on facilities used for other than cemetery purposes, the Director shall fix the area of the lot for Lateral Sewer Charges based on dimensions of the property actually used for such purposes.

(2) Oversize Sewer Charge. An Oversize Sewer Charge shall be required for each lot sought to be connected to the regional sewer system based on the net area of such lot, in the amount per square foot designated in the Master Fee Resolution. Parcels of land proposed for subdivision shall be assessed based on the parcels' net area prior to subdivision.

Property which has wholly or proportionately paid the cost of sewer mains, when such fact has been or can be established to the satisfaction of the Director, need pay only the Oversize Sewer Charge applicable to the portion of the property for which the charge has not been paid. Notwithstanding the above:

(i) When only a portion of a lot is developed, and the remaining portion is to continue undeveloped or is to be used solely for the growing of agricultural crops, or for public recreation uses not enclosed in a building, the Director may require the payment of the Oversize Sewer Charge applicable only to that portion of the lot developed or to be developed, provided that the parcel for which such fees are charged shall have an area of not fewer than twelve thousand five

hundred square feet. When the balance of the lot is developed, the Oversize Sewer Charge shall be paid regardless of whether or not additional sewer service is required. The Director shall fix the portion of the lot which is to be considered as developed.

(ii) In the R-A, AE-5 and AE-20 zone districts on a developed lot at least two net acres in size, when a portion not fewer than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence or the existing residence is to be connected to the regional sewer system, the Director may require the payment of the Oversize Sewer Charge applicable only to the portion of such lot to be improved or occupied by the existing residence to be connected to the regional sewer system. When the land use on the balance of the lot changes either through district amendment or special permit, the Oversize Sewer Charge shall be paid regardless of whether or not additional sewer service is required. The Director shall fix the portion of such Lot which is to be considered as improved or occupied.

(iii) Oversize Sewer Charges shall be paid upon connection with the regional sewer system, except that in the UGM area, a subdivider may receive oversize sewer and extra depth sewer fee credits in the amount of reimbursements due at the reimbursement rate in effect at the time of construction, in accordance with subdivision (c) of Section 6-306, for property owned by such subdivider who has previously constructed oversize sewers in the Oversize Sewer Service Area which totally includes such property. This provision shall apply to all tract maps approved after July 1, 1983.

(iv) On separate maintenance facilities within cemeteries and on facilities used for other than cemetery purposes, the Director shall fix the area for Oversize Sewer Charges based on the dimensions of the property actually used for such purposes.

(3) House Branch Sewer Charge.

(i) For each lot, which requires a new or revised house branch for which the installation or revision of the house branch is arranged by the city, the applicant shall pay to the city a House Branch Sewer Charge for the cost of the installation or revision. The cost of installation or revision shall be equal to the contract price paid by the city, plus such amounts as are designated in the Master Fee Resolution for administration, engineering, and inspection.

(ii) Each lot or premises shall be served with a separate sewer house branch, unless approved by the Director and a recorded covenant, approved by the City Attorney's Office, is executed between the affected property owners.

(iii) Where a lot is sought to be connected to an existing house branch, for which the cost has not previously been paid on behalf of the lot, the House Branch Sewer Charge shall be the same as if the house branch were a new house branch. If such connection is sought more than one year after the installation of such branch, simple interest shall be added at the rate of seven per cent (7%) per annum to the cost of installation as defined above, except that no interest shall accrue beyond five years from the date of installation.

(4) Trunk Sewer Charge. A Trunk Sewer Charge shall be required for all residential lots, within an established Trunk Sewer Service Area, sought to be connected to the regional sewer system in the amount designated in the Master Fee Resolution. The purpose of this subdivision is to ensure the provision of an adequate trunk sewer system to convey domestic and industrial wastes to the POTW treatment plant and to provide a means for levying and collecting charges to be used solely for the purpose of designing and constructing trunk sewer mains to serve designated Trunk Sewer Service Areas.

(i) The Council shall by resolution establish a Trunk Sewer Service Area, which is an area served by a trunk sewer main. The resolution may establish benefit to multiple Trunk Sewer Service Areas served from a common trunk sewer main, in which event, funds collected in the individual Trunk Sewer Service Areas may be used to finance the construction of the trunk sewer main. The service areas may be amended by the Council from time to time to reflect unusual sewer service capabilities or to reflect modifications in urban land use boundaries. The Director may make minor modifications to the Trunk Sewer Service Map, as sewer mains are extended at the fringes of the Trunk Sewer Service Areas, to reflect actual sewer service capabilities. Minor modifications are those changes to the Trunk Sewer Service Area boundary that when aggregated do not add or subtract more than forty acres to or from the Trunk Sewer Service Area. The Director shall maintain an official Trunk Sewer Service Map designating all established Trunk Sewer Service Areas.

(ii) The Council shall designate in the Master Fee Resolution a schedule of charges for each Trunk Sewer Service Area. The total amount of charges to be generated shall be based on the cost of the trunk sewer main to serve Trunk Service Area(s) or the cost to enhance the capacity of an existing trunk sewer main in a Trunk Sewer Service Area. The cost of a trunk sewer main shall include all of the direct and incidental costs of constructing the new trunk sewer main or the capacity enhancement for an existing trunk sewer main including, but not limited to, land acquisition, design and engineering, construction, financing costs, inspection and contract administration.

(iii) A Trunk Sewer Charge shall be required for every lot within a Trunk Sewer Service Area to be connected to the regional sewer system unless the Council, by resolution, waives the payment in that Trunk Sewer Service Area for existing developed lots without public sewer service. The total amount of charges to be generated in each Trunk Sewer Service Area shall be based on a reasonable allocation made by the Council considering the estimated or actual cost of design and construction of the trunk sewer main facilities and may include the cost to finance construction.

(iv) The Council may review and amend the Trunk Sewer Charges by amending the Master Fee Resolution from time to time to reflect inflation or any change in the factors affecting the cost of constructing such trunk sewer main facilities or the estimated number of units to be served by the facilities.

(v) All Trunk Sewer Charges collected from development within a Trunk Sewer Service Area shall be deposited in the Trunk Sewer Service Area account for that area. The Trunk Sewer Service Area account, including any accumulated

interest, shall be used solely for the purposes of designing and construction, including costs of financing trunk sewer main facilities in that Trunk Sewer Service Area, and for administration, inspection, and engineering costs of the city directly related thereto, except that monies accumulated in that account may be loaned to another Trunk Sewer Service Area as provided in this subdivision. In the event trunk sewer main facilities are designed or constructed by a developer, the Trunk Sewer Charges collected for such design and/or construction, less costs incurred by the city, shall be paid to the developer responsible for the design and/or construction, subject to Council approval.

(vi) The Council may authorize the use of funds accumulated in one Trunk Sewer Service Area account for construction of or making bonded debt payments for trunk sewer mains in another such area, provided the Council finds that the existing sewer service level in the Trunk Sewer Service Area with excess funds is adequate to provide service to all existing and approved development, and that the funds remaining on hand after the loan in that service area account are adequate to make the current bonded debt payments. The resolution authorizing a loan of funds to another Trunk Sewer Service Area shall establish the terms of the transaction and shall include provisions that the funds borrowed from a Trunk Sewer Service Area, including interest at a rate determined by the Controller to be the average annual rate received by the city on its investments, shall be repaid from Trunk Sewer Charges collected from subsequent development in the Trunk Sewer Service Area in which the trunk sewer was constructed. Loans from other Trunk Sewer Service Areas including interest shall be repaid in the order in which the Council approved such loans.

(5) Wastewater Facilities Charge. A Wastewater Facilities Charge shall be required for all residential sought to be connected to the regional sewer system in the amount designated in the Master Fee Resolution. The purpose of this subdivision is to ensure the provision of adequate POTW treatment plant and appurtenant facilities, and to provide a means for levying and collecting charges to be used solely for the purpose of designing and constructing a POTW treatment plant and appurtenant facilities.

(i) A Wastewater Facilities Charge in the amount designated in the Master Fee Resolution shall be required for every lot sought to be connected to the regional sewer system,

(ii) The Wastewater Facilities Charge shall be based on the cost of wastewater treatment facilities to be constructed to provide additional treatment capacity per unit for every lot sought to be connected to the regional sewer system for which sewerage treatment is provided by the subject facilities. The cost of the facilities providing expanded treatment capacity shall include all direct and incidental costs for constructing wastewater treatment plant facilities, including but not limited to, land acquisition, design, financing costs, inspection and contract administration.

(iii) All Wastewater Facilities Charges and interest thereon shall be deposited in the sewer service fund and shall be used solely for the purposes of design and construction, including costs of financing, and for administration, inspection and engineering costs of the city directly related to the enhancement of treatment capacity at the POTW treatment plant and appurtenant facilities.

(iv) The Council may review and amend the Wastewater Facilities Charge by amending the Master Fee Resolution from time to time to reflect inflation or any change in the factors affecting the cost of constructing such wastewater treatment facilities or the estimated number of units to be served by the facilities. The Council shall eliminate the charge at such time as revenues are no longer needed to enhance capacity at the POTW treatment plant or to pay the debt service related to capacity enhancement.

(b) When land is subdivided prior to the time the Final Map or Parcel Map is approved, the owner shall pay or cause to be paid all applicable sewer connection charges, except that the Wastewater Facilities Charge applicable to residential subdivisions shall be paid at the time of the issuance of a building permit for any structure to be constructed on such property.

(c) Payment of charges and issuance of permits pursuant to this section do not authorize the permittee to perform or cause to be performed work specified in this article to be performed by the city.

(d) Whenever the Council, the Board of Supervisors of the county, or the Board of a special district, whichever is applicable, has adopted a resolution of intention to construct regional sewer system improvements, no permit for additions to or connection to the regional sewer system to serve any lot included in the district subject to such resolution shall be issued until the hearing of protest has been finally determined in favor of the protestants or the proposed work has been consummated sufficiently to allow the lot to be served by such regional sewer system improvements.

(e) Payment of Lateral Sewer Charges pursuant to subdivision 6-304(a)(1), Oversize Sewer Charges pursuant to subdivision 6-304(a)(2), and House Branch Sewer Charges pursuant to subdivision 6-304(a)(4) may be deferred until issuance of a certificate of occupancy pursuant to an agreement which conforms to the requirements of Section 12-4.604.

(f) Payment of Trunk Sewer Charges pursuant to subdivision 6-304(a)(5), and Wastewater Facilities Charges pursuant to subdivision 6-304(a)(6) related to a business shall be deferred until issuance of a certificate of occupancy and collected pursuant to the requirements of Section 6-310. (Orig. Ord. 4726; Am. Ord. 5777, 1960; Am. Ord. 5834, 1960; Am. Ord. 6261, 1963; Am. Ord. 6466, 1964; Am. Ord. 6821, 1966; Am. Ord. 6882, 1966; Am. Ord. 67-48, 1967; Am. Ord. 67-49, 1967; Am. Ord. 69-41, 1969; Am. Ord. 72-140, 1972; Added Ord. 72-170, 1072; Am. Ord. 73-84, § 2, eff. 5-20-73; Am. Ord. 74-18, § 1, eff. 3-10-74; Am. Ord. 75-11, § 1, eff. 4-1-75; Am. Ord. 75-69, § 4, eff. 7-27-75; Am. Ord. 75-96, § 1, eff. 10-19-75; Am. Ord. 80-59, § 5, eff. 5-9-80; Am. Ord. 80-115, § 99, eff. 8-8-80; Am. Ord. 80-164, § 4, eff. 12-5-80; Am. Ord. 82-82, § 1, eff. 9-17-82; Am. Ord. 82-100, § 2, eff. 10-15-82; Am. Ord. 83-122, § 1, eff. 9-30-83; Am. Ord. 85-9, § 1, eff. 2-15-85; Am. Ord. 85-22, § 2, eff. 3-22-85; Am. Ord. 90-84, § 6, eff. 8-31-90; Am. Ord. 90-123, § 1, eff. 12-7-90; Am. Ord. 91-32, § 1, eff. 5-10-91; Am. Ord. 92-69, §§ 6, 7, eff. 9-25-92; Am. Ord. 95-38, § 1, eff. 6-9-95; Am. Ord. 96-62, § 1, eff. 10-25-96; Am. Ord. 98-87, §§ 6, 7, 1-9-99)

SEC. 6-305. PAYMENT OF SEWER CHARGES.

(a) The amount of any sewer connection charges or sewer facility charges prescribed under the provisions of this article shall be deemed a debt owing to the city which, until paid, shall be a continuing obligation of the owner of such property for connection to the regional

sewer system. Any person who makes a connection to the regional sewer system without having paid such charges in full or having accomplished the execution, acceptance and recording of an agreement to pay therefor as herein provided, shall be liable in an action in the name of the city in any court of competent jurisdiction for the amount of such charge. The conviction or punishment of any person for connecting to the regional sewer system without obtaining a permit shall not relieve such person from paying the charges due and unpaid at the time of such conviction.

(b) This section shall neither apply to the construction or payment for sewers which have been provided for under procedures regulating the division of land or the connection of sewers to property owned by a government or governmental agency, nor whenever the Council or Board of Supervisors of the county, whichever is applicable, has adopted a resolution of intention to construct improvements by special assessments within a district which includes said lot.

(c) Payment of sewer connection charges or sewer facility charges together with interest on the unpaid balance, payable because of connection of existing single-family residences anywhere in the City's service area, and commercial or industrial development in the Enterprise Zone, may be deferred by an agreement between the property owner and the city, to pay such charges together with interest on the unpaid balance, over a period of not more than fifteen years, in accordance with the following provisions:

(1) The agreement shall provide for substantially equal bimonthly installments amortized over a period of not more than fifteen years, at a rate of interest as periodically established by the Controller and adopted by the Council in the Master Fee Resolution.

(2) The sewer connection charges which may be deferred, and limitations, if any, on the amounts that may be deferred, shall be as established in the Master Fee Resolution.

(3) The agreement shall be of a form and content prescribed by the Controller and approved by the City Attorney.

(4) The agreement shall be signed by all persons having a record title interest in the real property being served by the city sewer system, to which connection is requested, and shall include the legal description of the property.

(5) The agreement shall provide that the whole, or any part of the balance of charges due at any time under the agreement may be accelerated and paid at any time, at the option of the payer.

(d) The agreement provided for in subdivision (c) above shall be in the form of a covenant running with the land, and shall establish a lien against the property in favor of the city in the amount of all deferred charges, and shall be recorded in the office of the Fresno County Recorder.

(e) The agreement and lien shall be enforceable by the city in any manner available at law or in equity, including but not limited to private foreclosure and sale of the property in the manner provided by Section 2924 of the California Civil Code. (Orig. Ord. 4726; Am. Ord. 5777, 1960; Am. Ord. 5834, 1960; Am. Ord. 6261, 1963; Am. Ord. 6466, 1964; Am. Ord. 6821, 1966;

Am. Ord. 6882, 1966; Added Ord. 67-48, 1967; Am. Ord. 67--49, 1967; Am. Ord. 72-140, 1972; Am. Ord. 75-69, § 5, eff. 7-27-75; Am. Ord. 80-115, § 100, Eff. 8-8-80; Am. Ord. 82-22, § 2, eff. 3-19-82; Am. Ord. 90-61, § 1, eff. 7-27-90; Am. Ord. 91-51, § 1, eff. 6-14-91; Am. Ord. 98-87, §§ 8, 9, 1-9-99; Am. Ord. 2003-35, § 1, eff. 5-30-03; Am. Ord. 2003-75, § 1, eff. 10-5-03).

SEC. 6-306. REIMBURSEMENTS.

(a) Oversize Sewer Mains (Non-UGM). Reimbursements for Oversize Sewer Charges paid pursuant to subdivision 6-304(a)(2), as the result of development in areas other than an UGM sewer service area, shall be made as follows:

(1) When a city sewer main installed by a person is required by the Director to be constructed to a size larger than eight inches in diameter, the city shall reimburse such person in an amount designated in the Master Fee Resolution. The amount to be reimbursed shall be credited against the Oversize Sewer Charge to be paid on behalf of all property contributing to the cost thereof, in proportion to the amount of such contribution. If the credit for any such property exceeds the Oversize Sewer Charge, then a sum equal to the difference shall be paid from the sewer connection account upon city acceptance of the main.

(2) When a city oversize sewer main installed by a person is required by the Director to be constructed at a depth greater than eight feet, the city shall reimburse such person in an amount designated in the Master Fee Resolution. The amount to be reimbursed shall be credited against the Oversize Sewer Charge to be paid on behalf of all property contributing to the cost thereof in proportion to the amount of such contribution. If the credit for any such property exceeds the Oversize Sewer Charge, then a sum equal to the difference shall be paid from the sewer connection account upon city acceptance of the main.

(b) City Sewer Mains.

(1) This subdivision shall be applicable to city sewer mains installed after July 1, 1975, except when constructed by special assessments,

(2) Any person installing a city sewer main shall, prior to construction of the city sewer main, file with the Director a legal description of the properties on behalf of which contributions have been made to the cost of the construction, and a statement of the proportions of the cost borne by each property. Within ninety days following city acceptance of the city sewer main, such person shall file with the Director a project accounting, in a form as specified by the Director, stating the cost (excluding any city reimbursement) of the construction of the main. In the event a project accounting has not been filed with the Director within such period, then a reimbursement under subdivision (b)(3), below, shall not be made in the event additional property is connected to the sewer main constructed. If an ownership statement is not filed prior to construction, only the property served by the city sewer main and owned by the person who installed the city sewer main on the date of commencement of installation will be deemed to have paid for the installation; provided, that if within seven years after the date of commencement of installation such person acquires in fee property served by the city sewer main which would otherwise be subject to payment of Lateral Sewer Charges, such person shall also be deemed to have paid the Lateral Sewer Charges for such property.

(3) For the initial reimbursement period, or, if applicable, the extended reimbursement period, as such terms are defined in Section 12-4.501.5-F of this Code, after city acceptance of a city sewer main referred to in subdivision (b)(1) above, the person or persons bearing the cost of such city sewer main construction may be reimbursed pursuant to this subdivision (b). The Lateral Sewer Charges collected by the city pursuant to this article for connection to such city sewer main shall be paid by the city proportionately to the owner or owners of property on behalf of which contributions were made to the cost of construction of such city sewer main. When a person is entitled to an UGM fee reimbursement under this subsection, the city shall make semiannual payments, in amounts determined by the Director, in the manner and for the period prescribed by Section 12-4.504-C of this Code. However, neither shall reimbursement exceed the sum of (1) one hundred percent of the cost of constructing city sewer mains which do not front on any contributing property, and (2) fifty per cent of the cost of constructing city sewer mains fronting on properties on behalf of which such contributions were made; nor shall the total reimbursement exceed the total amount of the Lateral Sewer Charges which would have been payable by property on behalf of which no contribution was made to the cost of installation as of the date of city acceptance of the city sewer main. Such reimbursements shall be paid from the applicable sewer connection account.

(4) If the total amount of the Lateral Sewer Charges (based on fees in effect on the date of city acceptance of the city sewer main) which would be collectible from property on behalf of which no contribution has been made to the cost of installation is less than one thousand dollars, the Director may elect to proportionately reimburse from the applicable sewer connection account, after completion of the city sewer main, to the person or persons contributing to the cost of constructing the city sewer main, the amount of said Lateral Sewer Charges which would be collectible from non-contributing property. If the Director elects to reimburse in this manner, such person or persons will be eligible neither for the exemption provided in subdivision (b)(2) above nor for further reimbursement provided in subdivision (b)(3) above.

(5) For purposes of reimbursements, where a property has more than one frontage, the actual Lateral Sewer Charge paid shall be apportioned between the frontages on which the calculation of charges was based in the ratio of the total length of each frontage.

(c) UGM Oversize Sewer Mains. Oversize Sewer Service Areas shall be established for all land located within the Urban Growth Management Area, the boundaries of which areas shall reflect that territory which the Director determines will receive primary service from existing or projected oversized facilities or other trunk sewer mains identified by the Director.

(1) The maximum reimbursement for oversize sewer cost, which may be paid from the sewer connection account upon city acceptance of an oversize sewer main, shall be an amount designated in the Master Fee Resolution.

(2) All subsequent reimbursements, in amounts designated in the Master Fee Resolution, shall be determined semiannually on or about each April first and October first following city acceptance of the city sewer main, and shall occur only to the extent Oversize Sewer Charges are paid on behalf of non-contributing properties located within the service area of the oversize sewer main for the duration of the appropriate reimbursement period, as defined in Section 12-4.501-F of this Code. The order of

reimbursements shall be based on the dates of submittal of project accountings to the Director. Reimbursements shall not be initiated for an oversize sewer main until reimbursements are complete for oversize sewer mains covered by previously submitted project accountings. Project accountings must be filed with the Director within ninety days of city acceptance of the oversize sewer main. Reimbursements shall not be made if project accountings are not so filed within such period.

(3) In the event all construction which would be subject to payment of the Oversize Sewer Charge which would be used for reimbursement purposes within an UGM service area is effectively barred or prohibited by any governmental agency having superior jurisdiction to the city, or by any legal action initiated by or on behalf of any such agency, the applicable reimbursement period as defined in Section 12-4.501.5-F of this Code, shall be extended on a day-to-day basis for the duration of any such moratorium, but not exceeding the appropriate cumulative reimbursement period.

(4) Reimbursements in excess of the maximum reimbursement amount may be paid only after such amount has been repaid through the collection of Oversize Sewer Charges within the service area of the subject oversize sewer main. A credit shall be given against the Oversize Sewer Charge on those properties required to construct an oversize sewer main whenever the estimated cost of construction exceeds the fee obligation.

(d) When reimbursements are made pursuant to subdivision (b) or (c) of this Section 6-306, the city shall retain an administrative charge pursuant to Section 12-4.504-C. Reimbursement of the fees shall be made in the manner and for the period prescribed by Section 12-4.504-C of this Code.

(e) Trunk Sewer Mains Reimbursement Provisions.

(1) Where a developer installs a trunk sewer main or portion thereof, he shall file with the Director, within ninety days following city acceptance of the trunk sewer main, a project accounting stating the cost of construction of the trunk sewer main. The project accounting shall include a legal description of all properties on behalf of which contributions have been made to such costs, and a statement of the proportion of the costs borne by each property.

(2) Following the receipt of the project accounting, the Director shall make semiannual determinations on or about each April first and October first, in the manner prescribed in Section 12-4.504-C of this Code, of the amounts to be reimbursed to the persons who constructed the trunk sewer main as shown in the project accounting, subject to the following:

(i) Each determination shall calculate the Trunk Sewer Charges which have been collected during the preceding six months for land developed within the Trunk Sewer Service Area in which the trunk sewer main is located.

(ii) No reimbursements shall be made if the project accounting was not filed within the time specified in subdivision (1) of this subsection.

(iii) In no event shall reimbursement payments be made which total in excess of the cost of the trunk sewer main as shown on the project accounting.

(3) The Trunk Sewer Charge on the property contributing to the cost of the trunk sewer main shall be either increased or decreased by an amount equal to the difference between the actual cost of construction and the fee obligation established at the time of the granting of the entitlement.

(4) Reimbursement payments shall be made neither after the end of the appropriate reimbursement period, as defined in Section 12-4.501-F of this Code, nor shall reimbursement be made which would reduce the balance in the Trunk Sewer Service Area account to an amount less than the bond debt payments due during the next twelve months.

(5) The priority of reimbursements shall be according to dates the project accounting statements are accepted by the Director.

(6) Reimbursements shall not be made until reimbursements are complete for the trunk sewer main, which is covered by previously submitted project accounting statements. (Added Ord. 75-69, § 6, eff. 7-27-75; Am. Ord. 76-8, § 1, eff. 2-22-76; Am. Ord. 80-115, § 101, eff. 8-8-80; Am. Ord. 80-164, § 7, eff. 12-5-80; Am. Ord. 83-163, § 1, eff. 1-20-84; Am. Ord. 89-85, §§ 1, 2, eff. 7-28-89; Added Ord. 90-84, § 7, eff. 8-31-90; Am. Ord. 98-87, §§ 10, 11, 1-9-99)

SEC. 6-307. HOUSE BRANCHES.

(a) The charge for replacement of an existing house branch by one of a larger size shall be the same as for a new house branch of the size requested, except that when sewer mains and house branches are being replaced under a city sewer replacement program, the charge for increasing the size of a house branch will be the difference in cost between the size requested by the property owner and the size which would normally be installed by the city under its replacement program.

(b) Where it is necessary to relocate a house branch for the convenience of a property owner, or where relocation is required because the construction by or on behalf of the property owner will interfere with the operation or maintenance of the house branch, the charge for such relocation shall be the cost for labor (including overhead), equipment and material.

(c) The minimum size of the house branch installed for any property shall be as the Director may designate.

(d) When a property owner requests the abandonment of one or more house branches and the installation of one or more new house branches, the cost of abandonment and the cost of the new branches shall be paid for by the customer as specified in subdivision 6-304(a)(4).

(e) Where a house branch sewer must be constructed under a major street which was surfaced within the previous five years with permanent concrete or asphalt concrete surfacing, the house branch shall be installed by jacking or boring under the surface. (Added Ord. 75-69, § 7, eff. 7-22-75; Am. Ord. 98-87, §§ 12, 13, 1-9-99)

SEC. 6-308. SEWER SYSTEM CONSTRUCTION.

(a) Any person desiring to make an addition to the city sewer system to serve property shall make a request in writing to the Director for preliminary investigation into the feasibility of such addition. If the addition as requested is found to be feasible by the Director, such addition may be made to the city sewer system in accordance with the provisions of this chapter. The Director shall cause the installation to be inspected, and shall allow the final connection to such system only if it is found that such additions conform in all respects with the standard specifications for sewer facilities of the city, with applicable health laws, and with the lines and grades designated by the Director.

(b) If a right-of-way is needed for an addition to the city sewer system, the person constructing the addition shall obtain such right-of-way for the city, or pay the cost to the city of acquiring such right-of-way.

(c) If the Director determines that a pump station is necessary to serve the property of the person installing the city sewer main, such person shall install a pump station meeting specifications approved by the Director and shall pay the full cost of such installation.

(d) When new, enlarged or additional sewer service is required to serve a property, city sewer mains shall be installed across the full frontages of the property unless the Director determines that city sewer mains are not required at that time across the full frontage to serve other properties or because an undeveloped portion of the subject property does not require sewer service. Where a property has more than one frontage on which city sewer main installation would be required by this subsection, the Director may require payment of Lateral Sewer Charges in lieu of city sewer main installation along such additional frontages. Lateral Sewer Charges collected pursuant to this subsection shall be deemed as reimbursable pursuant to subsection 6-306(b)(3).

(e) Specifications and plans for the installation of additions to the city sewer system shall be prepared by a registered civil engineer and shall be approved by the Director before a permit for doing the work may be issued.

(f) When a city sewer main has been installed in public streets or easements pursuant to the regulations of the city and has been accepted by the Director, then the sewer main shall become the property of the city and a part of the city sewer system. House branch sewers, including their connection to city sewer mains, shall not be considered as city property or become a part of the city sewer system, and their maintenance and repair shall not be provided by the city.

(g) In the designated area of the city that requires the installation of house sewer traps, they shall be installed as follows:

(1) Each house branch sewer shall have a trap as required under Chapter 11, Article 1 of this Code. The trap shall be in the parkway or as near as possible to the property line.

(2) A fresh air inlet, not fewer than four inches in diameter, shall be installed on the house side of each such trap. Each such inlet shall be fitted with an approved cap, which will prevent the depositing of any foreign matter to the inlet.

(3) All fresh air inlets on public right of way shall be installed flush with adjacent ground. Ground adjacent to all fresh air inlets shall be graded so that surface water will

not enter the inlet. The fresh air inlet shall be located between the curb and the sidewalk, unless approved otherwise by the Director of Development.

(4) Where there is no definite drainage pattern to the yard area, any fresh air inlet on private property shall extend a minimum of six inches above the adjacent ground. Where practical, the fresh air inlet shall terminate below the floor level of the building being serviced. Where it is not practical to do so, an approved backwater valve shall be installed. This device shall be installed as required under Chapter 11, Article I of this Code, except when a backwater valve is installed in a building sewer, the main house branch trap may be omitted and a combination wye and 1/8 bend or a two-way clean-out fitting shall be installed on the building side of the backwater device. A full size vent shall be installed into the fitting and shall extend to the surface of the ground and terminate with a vent cap which meets the requirements.

(5) Notwithstanding the provisions of Section 6-323 in this article, the enforcement of this subsection shall be the responsibility of the Director of Development.

(h) The person constructing an addition to the city sewer system shall reimburse the city for its cost of labor (including overhead), equipment and materials for the following:

(1) Construction or revision of house branches where the Director determines that the site conditions are such that there is a significant hazard to the public convenience, safety and health or to private property in the area, and that such hazard may be mitigated if the city makes arrangements for construction or revision.

(2) All connections to pressure sewers after completion of such sewers.

(3) Review and approval of specifications and plans submitted by the applicant for the proposed additions to the city sewer system.

(4) Preliminary investigation of the feasibility of additions to the city sewer system.

(5) Any design, surveying, inspection or testing performed by the city in connection with an addition to the city sewer system. Such reimbursements may be made at standard rates to cover costs as may be designated by the Council from time to time in the Master Fee Resolution.

(i) Although it is the intent of this article that arrangements necessary to install city sewer mains required to serve property shall be the responsibility of the person desiring such service, an exception is necessary to facilitate minor additions to the city sewer system. The city may, upon written request of the applicant, take all steps necessary to complete the total installation subject to the following conditions:

(1) Total of front footage for which Lateral Sewer Charges would be payable if city sewer mains existed plus off-site sewer required is three hundred feet or less.

(2) Applicant pays the Oversize Sewer Charge, the Lateral Sewer Charge, the Wastewater Facilities Charge, and the Trunk Sewer Charge if applicable for the property as though city sewer mains already existed on the property frontage.

(3) Applicant reimburses the city in accordance with this article for the house branch and preliminary investigation.

(4) Applicant pays to the city the fee designated in the Master Fee Resolution for each foot of city sewer main installed to cover the cost of design, surveying, inspection, and testing.

(j) Connections to city sewer mains in other than dedicated and surfaced streets or alleys shall not be permitted where service can be rendered from dedicated and surfaced streets or alleys by extension or otherwise. (Orig. Ord. 4726; 5309, 1958; 5311, 1958; Am. Ord. 5777, 1960; Am. Ord. 6261, 1963; Am. Ord. 6667, 1965; Am. Ord. 6882, 1966; Am. Ord. 69-41, 1969; Am. Ord. 72-136, 1972; Am. Ord. 75-11, §§ 2, 3, eff. 4-1-75; Am. Ord. 75-69, § 8, eff. 7-27-75; Am. Ord. 75-96, § 2, 10-19-75; Am. Ord. 80-115, §§102, 103, eff. 8-8-80; Am. Ord. 98-87, §§ 14, 15, 1-9-99)

SEC. 6-309. SEWER SERVICE CHARGES.

City of Clovis and member agencies of the city's POTW shall adopt, by ordinance, regulation or both, a sewer service charge system in accordance with Section 204(b)(1)(A) of the Act (33 U.S.C. § 1284(b)(1)(A)), 40 C.F.R. §§ 35.929 through 35.939-3, Section 307(b) and (c) of the Act (33 U.S.C. § 1317(b) and (c)) and 40 C.F.R. § 403.9.

(a) **Monthly Sewer Service Charge.** The monthly sewer service charge comprised of a capital component and an operations and maintenance component, for use of the wastewater collection system and treatment facilities shall be designated in the Master Fee Resolution. In case of fee sharing agreements such as those existing with the Pinedale County Water District and the Pinedale Public Utility District only the operations and maintenance fee component shall be used.

(b) **Additional Requirements.** Industrial users, as defined in Section 6-302, shall comply with the following: (1) Industrial high strength users are industrial users that have an effluent volume greater than 25,000 gallons per day or, for those industrial users with no totalizing effluent meter, a potable water volume of greater than 27,500 gallons per day, or who are otherwise determined by the Director. For industrial high strength users, the Director shall determine the strength for billing purposes by utilizing one of the following methods:

(i) By taking the average of the analyses made by the city for a given billing period. Where an industry operates on a seasonal basis, charges will be based upon analyses made during the periods of operation. If a minimum number of measurements cannot be taken in a billing period, all analyses taken during the previous six months shall be averaged and that value will be used for billing purposes.

(ii) When requested in writing, the Director may authorize an additional two tests per billing period if the Director finds that the additional testing will give a more representative average. All costs, including overhead associated with the sampling and testing of the additional two samples, will be charged directly to the industrial user.

(c) **Determination of Charges.** The following provisions shall be applied when appropriate in determining charges for sewer service and responsibility therefor:

(1) Any person charged for sewer service may, upon request to the Director, have his sewer service charges calculated pursuant to and subject to the conditions set forth in Subdivision (2) hereof.

(2) The quantities of wastewater produced shall be determined in one of the following ways:

(i) By use of an effluent wastewater meter which has flow-totalizing capability, installed and maintained at the expense of the owner or occupant of the premises and approved by the Director.

(ii) If no effluent wastewater meter is available, by the use of a potable water meter which meters all sources of incoming potable water, including private wells.

(iii) If (i) or (ii) are not applicable, then as determined by guidelines established by the Director which shall be conclusive. Such determinations of the Director shall be effective for not more than one year. Where the volume of wastewater produced by any premises is determined by the Director, instead of by installation of an effluent wastewater meter, the owner or occupant of such premises shall pay to the city the cost of making the original and each subsequent annual estimate, subject to a minimum charge designated in the Master Fee Resolution.

(iv) In lieu of the above, public and parochial schools may be charged for sewer service on the basis of average daily attendance as designated in the Master Fee Resolution, provided the premises so charged for sewer service are used exclusively for school purposes with no residential uses thereon. Such charges shall be calculated on an annual basis, based on the previous years attendance divided by twelve to determine the monthly rate.

(3) Where two or more users are located on the same premises and each has a separately metered water service, the sewer service charge shall be calculated and billed in the same manner as if each user were located on a separate premises.

(4) Where several users are served on a single metered water service and the sewer service charge for one or more of such users is based upon the volume of potable water delivered to such user, then a single service charge shall be made, based upon the total volume of water delivered through such meter, which charge shall be the responsibility of the water service customer.

(5) Where a single business occupies contiguous premises served by more than one metered water service, and the sewer service charge for such use is based upon the volume of potable water delivered to such user, then a separate sewer service charge shall be made for the water used through each meter.

(6) Where two or more commercial users are served with a single metered water service and the sewer service charge for one or more of such users is based upon the volume of potable water delivered to such user, then a single service charge shall be made based upon the total volume of water delivered through such meter. The sewer service charge shall be determined by the Director based on the activity of the user

and/or analyses of the effluent and shall be the responsibility of the water service customer.

(7) Where there are mixed commercial and residential uses on the same premises, and the commercial use has separate sewer facilities to serve employees or customers, the sewer service charge shall be specified in this subsection for the residential use, plus the monthly sewer charge referred to in Subsection (a) hereof and designated in the Master Fee Resolution, for the commercial use.

(8) Where there are mixed commercial and residential uses on the same premises and the commercial use does not have separate sewer facilities to serve employees and customers, the sewer service charge shall be calculated based upon the highest economic use.

(9) Upon annexation to the city of property which has been connected to the sewer without payment, either directly or indirectly, of the cost of constructing the lateral sewer to which the property is connected, or without payment of the lateral sewer charge, oversized sewer charge, and house branch sewer charge required by this article, then the lateral sewer charge, oversized sewer charge, and house branch sewer charge imposed by this article shall be due and payable to the city.

(10) Whenever any premises are not served with city water and not billed for sewer service by a special district, and no responsible tenant or lessee agrees to and does pay the sewer service charges, the controller shall bill the owner of the premises who shall be responsible to pay said charges.

(11) Notwithstanding the foregoing, the western wineries on the separate winery waste system, industries connected to city-owned pretreatment facilities at 650 West Church Avenue, and special districts providing sewer service and/or billing service shall pay sewer service charges in accordance with agreements approved by the Council.

(d) **Special Disposal Site, Contract Disposal, Charges.** Whenever special disposal sites are constructed therefor, the Director may allow the disposal therein of the contents of trucks designed and used for the pumping out and removal of waste from septic tanks and chemical toilets. The Director is authorized to enter into agreements with septic waste disposal companies regulating such disposal, and providing for charges to recover the cost of the sites and other city expenses including wastewater treatment at the rates designated in the Master Fee Resolution.

(e) **Failure to Pay Sewer Service Charges.** Failure to pay sewer service charges shall be deemed a violation of this article and subject to the provisions of Section 6-323(d) of this Code. (Orig. Ord. 4389; Am. Ord. 5309, 1958; Am. Ord. 5917, 1961; Am. Ord. 6161, 1962; Am. Ord. 6173, 1962; Am. Ord. 6174, 1962; Am. Ord. 6385, 1963; Am. Ord. 6388, 1964; Am. Ord. 6465, 1964; Am. Ord. 6576, 1965; Am. Ord. 6650, 1965; Am. Ord. 6882, 1966; Am. Ord. 67-47, 1967; Am. Ord. 67-50, 1967; Am. Ord. 68-56, 1968; Am. Ord. 68-96, 1968; Am. Ord. 69-41, 1969; Am. Ord. 71-44, 1971; Am. Ord. 71-105, 1972; Am. Ord. 72-140, 1972; Am. Ord. 73-103, § 1, eff. 7-5-73; Am. Ord. 74-57, § 1, eff. 7-1-74; Am. Ord. 76-33, § 1, eff. 5-9-76; Am. Ord. 80-115, § 104, eff. 8-8-80; Am. Ord. 83-41, § 3, eff. 7-1-83; Am. Ord. 87-29, § 2, eff. 3-17-87; Am. Ord. 94-10, § 3, 3-11-94; Am. Ord. 98-91, §§ 1, 2, 1-1-99; Am. Ord. 2002-73, § 2, eff. 1-23-02).

SEC. 6-310. SEWER FACILITY CHARGES.

(a) Sewer Facility Charges, when applicable for a business as defined in Section 6-302, shall be based upon the estimated actual use of the regional sewer system by the premises or the user in an amount designated in the Master Fee Resolution. Sewer Facility Charges include the following:

(1) Wastewater Facilities Charge, which consists of a charge per gallon of sewer flow, plus a charge per pound of BOD, plus a charge per pound of TSS. The Wastewater Facilities Charge is determined using the following formula:

$$\text{Flow Charge} = \{\text{sewer flow(gal.)}\} \times \{\text{MFR fee rate}\}$$

$$\text{BOD Charge} = \{\text{sewer flow(mgd)}\} \times 8.345 \times \text{BOD(mg/L/day)} \times \{\text{MFR fee rate}\}$$

$$\text{TSS Charge} = \{\text{sewer flow(mgd)}\} \times 8.345 \times \text{TSS(mg/L/day)} \times \{\text{MFR fee rate}\}$$

(2) Trunk Sewer Charge, which consists of a charge per gallon of sewer flow only. The Trunk Sewer Charge is determined using the following formula:

$$\text{Flow Charge} = \{\text{sewer flow(gal.)}\} \times \{\text{MFR fee rate}\}$$

(b) **Determination of Charges.** After connection, the customer shall allow the city to monitor sewer flow and sewer loading of the business upon which Sewer Facility Charges shall be determined. Sewer flow and sewer loading shall be determined pursuant to Section 6-309(b). Following each two-month billing period, should the customer's computed sewer flow for the period be greater than the total accumulated sewer flow purchased to date, the customer shall be billed for one-eighteenth of the computed sewer flow minus the total accumulated sewer flow purchased to date. For the purpose of this section, "total accumulated sewer flow purchased" is the quantity of sewer flow purchased when all incremental and previously purchased sewer flow charges are summed.

(c) **Applicability to Businesses.** This section shall apply to any new development entitlement as defined in Section 12-603(C) for a business, or any business where there is a change in the use or the operation of a development for which a special permit is required. Notwithstanding the above:

(1) Property which has previously paid a Wastewater Facility Charge or Trunk Sewer Charge, when such payment can be determined to the satisfaction of the Director, shall only be responsible for payment of additional Sewer Facility Charges when the business' regional sewer system usage exceeds the equivalent flow units previously paid for or the billing period with the highest average daily flow over the prior twelve months, whichever is the greater.

(2) Where a development entitlement is for residential use, sewer connection charges shall be collected pursuant to Section 9-503.1.

(d) **Violation.** Failure to pay Sewer Facility Charges shall be deemed a violation of this article, and subject to the provisions of subsection 9-510(d) of this Code. (Add. Ord. 98-87, § 16, 1-9-99)

SEC. 6-311. EMPLOYMENT DEVELOPMENT CREDIT.

(a) For the purpose of encouraging employment development, the owner or proprietor of a business subject to payment of Wastewater Facility Charges pursuant to Section 6-310 may apply for an employment development credit. Employment development credit shall be subtracted from the total calculated Sewer Facilities Charges due each billing period up to the total amount of said charges in that billing period. Employment development credit given shall be based on the total number of equivalent full-time positions employed at such business. For the purposes of determining the employment development credit, an "equivalent full-time position" is defined as one or more persons to which wages were paid over a calendar month totaling 170 hours. The total amount of employment development credit received each billing period shall be determined as follows:

$$\text{Employment development credit for a billing period} = (Y) \times (150 \text{ gal.}) \times (Z) \div 18$$

Where:

$$Y = (\text{Total employee hours in a billing period} \div 2) \div 170 \text{ hrs.}$$

Z = Flow charge per gallon for the Wastewater Facility Charge as designated in the Master Fee Resolution, "Total employee hours in a billing period" is defined as those paid employee hours which occurred in the last full calendar month of the billing period plus the previous full calendar month.

(b) **Certification of Employees.** To qualify for the receipt of an employment development credit, the owner or proprietor of a business must submit a certification form as provided by the city, which provides the employer's name, employer ID number, business name, business address, billing account number, the names of all persons who were paid wages during the month, the total hours each person worked, the total wages paid to each person or other relevant information as determined by the Director. Based on the information submitted, the Director shall determine the total employment development credit the business may receive as provided in the section above, which shall be conclusive. In order to receive an employment development credit over the bimonthly billing period, the business must submit the certification form which includes such employment information for the billing period in which the credit is requested, and the form must be received by the city no later than (15) fifteen days after the end of each billing period. Certifications received later than (15) fifteen days after the end of each billing period will not receive an employment development credit in that billing period for which the certification is late.

(c) **Duration of Employment Development Credit.** The Council may elect to discontinue the provisions of this section for new businesses or development at some future time, except that, any business which has been given an employment development credit under this section shall continue to receive such credit, as long as the business' billing account remains active and certifications are received in a timely manner as provided above. In the event the billing account is closed, such credit will cease. Employment development credits may not be transferred from one business location to another. (Add. Ord. 98-87, § 17, 1-9-99)

SEC. 6-312. FINANCIAL PROCEDURES.

All billing for and collection of sewer service charges shall be handled as provided in this article and in Article 1 of Chapter 6 of this Code. (Rep. and Added Ord. 70-3, 1970).

SEC. 6-313. VACANCIES.

While any premises connected to the city sewer system are vacant, the regular minimum sewer service charge shall be payable for such premises by the owner thereof, whether or not sewer service is used, if water is connected to or available for use on the premises, unless such premises are physically disconnected from the city sewer system. Applications for determination by the Director that the premises have been physically disconnected from the city sewer system shall be made to the Director accompanied by the disconnection inspection fee designated in the Master Fee Resolution. Premises so disconnected shall not be reconnected to the city sewer system by any person except with permission of the Director. If approval for reconnection to the city sewer system is desired, an application for reconnection shall be filed with the Director, accompanied by the reconnection inspection fee designated in the Master Fee Resolution. (Orig. Ord. 4279; Am. Ord. 6161, 1962; Am. Ord. 80-115, § 105, eff. 8-8-80; Am. Ord. 98-91, § 5, 1-1-99)

SEC. 6-314. CONDITIONS OF SEWER SERVICE.

All persons using the regional sewer system shall pay for such service and for the privilege of connecting to the sewer system at the rates, at the time, and under the conditions set forth in this article, and shall comply with all regulations set forth in this article relating to the use of such regional sewer system and all applicable State and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 C. F.R., Part 403), and all other applicable parts of the Code of Federal Regulations as they are now constituted, or as they may hereafter be amended or recodified. (Orig. Ord. 4341; Am. Ord. 5777, 1960; Am. Ord. 98-91, § 6, 1-1-99; Am. Ord. 2002-73, § 3, eff. 1-23-02).

SEC. 6-315. MONITORING FACILITIES.

(a) **Required to Install.** The Control Authority shall require the user to install sampling and/or monitoring equipment, including manholes, as necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at the user's own expense. All devices used to determine wastewater flow and quality shall be calibrated, at a frequency to be determined by the Control Authority, to ensure their accuracy. The sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the Control Authority unless a time extension is granted by the Control Authority.

(b) **Location of Equipment.** The sampling and monitoring equipment shall be situated on the user's premises, but the Control Authority may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public right-of way and located so that it will not be obstructed by landscaping or parked vehicles.

(c) **Access to Equipment.** If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for city personnel, such as a gate secured with a city lock.

There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis.

(d) **Effluent Meter and Composite Sampler.** New industrial users or existing users planning a remodel of existing process facilities and/or pretreatment system which contribute high strength wastewater to the POTW shall install a nonresetable totalizing effluent meter and a flow proportioned composite sampler which is controlled by a flow meter.

(e) **Provisions for Existing Users.** Existing industrial users shall be subject to the provisions of Section 6-315(a), (b), (c), and (d) at the discretion of the Control Authority.

(f) **Plan Review.** Detailed plans showing the operation and proposed installation of all monitoring and/or sampling equipment shall be submitted to the Control Authority for review and shall be acceptable to the Control Authority before installation of the equipment. Any subsequent changes to any sampling and/or monitoring equipment shall be reported to and be acceptable to the Control Authority. (Added Ord. 2002-73, § 4, eff. 1-23-02).

SEC. 6-316. PRETREATMENT.

(a) **Pretreatment Required.** Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards and/or city effluent limitations within the time limitations specified by federal pretreatment regulations or the Control Authority, whichever is more stringent.

(b) **Pretreatment Equipment Maintenance.** Any equipment required to pretreat wastewater to a level acceptable to the Control Authority shall be provided, operated, and maintained at the user's expense.

(c) **Pretreatment Equipment Plan Review.** Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Control Authority before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or operating procedures shall be reported to and be acceptable to the Control Authority prior to the user's initiation of the changes.

(d) **Pretreatment Records.** All records relating to compliance with pretreatment standards shall be made available to the Control Authority upon request. (Added Ord. 2002-73, § 5, eff. 1-23-02).

SEC. 6-317. ADDITIONAL PRETREATMENT MEASURES.

(a) **Right to Restrict Flows.** Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(b) **Flow Equalization Required.** The Control Authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) **Combustible Gas Detection Meter Required.** Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Added Ord. 2002-73, § 6, eff. 1-23-02).

SEC. 6-318. HAULED WASTEWATER.

(a) **Permit Required.** Liquid waste haulers shall be required to obtain a wastewater discharge permit.

(b) **Accepted Discharge Location.** Septic tank waste may be introduced into the POTW only at locations designated by the Control Authority, and at such times as are established by the Control Authority. Such waste shall not violate Section 6-327 of this ordinance or any other requirements established by the city.

(c) **Accepted Type of Waste.** Liquid waste haulers shall transport domestic or residential liquid waste originating in Fresno County only, unless specifically permitted by the Control Authority.

(d) **Manifest Required.** Liquid waste haulers shall provide a manifest for every load. The manifest shall be of a form approved by the Control Authority and shall include, at a minimum:

- (1) The name and address of the source of the domestic waste;
- (2) The volume of waste generated; and
- (3) The truck identification. (Added Ord. 2002-73, § 7, eff. 1-23-02).

SEC. 6-319. PROBLEM DISCHARGES.

(a) **Protection Required.** Each user shall provide protection from accidental discharges, slug loads, or discharges that are otherwise determined to be non-routine or unusual in nature, that may cause potential problems for the POTW.

(b) **Protection Equipment Maintenance.** Equipment to protect from the problem discharges listed in subsection (a) above shall be provided and maintained at the user's expense.

(c) **Protection Equipment Plan Review.** Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority before construction of the facility. All existing users shall complete such a plan as required by the Control Authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this article.

(d) **Emergency Notification Procedure for Employees.** Employers shall ensure that all employees who may cause or suffer to occur a discharge as described in subsection (a) above are advised of the emergency notification procedure. (Added Ord. 2002-73, § 8, eff. 1-23-02).

SEC. 6-320. EMERGENCY SLUG CONTROL AND RESPONSE PLAN.

(a) **Biennial Evaluation.** At least once every two (2) years, the Control Authority shall evaluate whether each significant industrial user needs an Emergency Slug Control and Response Plan. The Control Authority may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Control Authority may develop such a plan for any user.

(b) **Information Required.** An Emergency Slug Control and Response Plan shall address, at a minimum, the following:

- (1) Description of all discharge practices;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Control Authority of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. 403.5(b), with procedures for follow-up written notification within five (5) days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. (Added Ord. 2002-73, § 9, eff. 1-23-02).

SEC. 6-321. CONFIDENTIAL INFORMATION.

(a) **Public Access.** All information and data concerning a user obtained from reports, questionnaires, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and inspections shall be available to the public without restriction unless the user specifically requests otherwise, and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data.

(b) **Access to Governmental Agencies.** When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately to governmental agencies for uses related to the Pretreatment Program, and in enforcement proceedings involving the person providing the report.

(c) **Effluent Data Unrestricted.** Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Added Ord. 2002-73, § 10, eff. 1-23-02).

SEC. 6-321.1. FATS, OILS, & GREASE (FOG) CONTROL PROGRAM

(a) Title. This section shall be referred to as the “City of Fresno FOG Control Program Ordinance” or “FOG Ordinance.”

(b) Purpose. The purpose of the FOG Ordinance is to reduce Sanitary Sewer Overflows and blockages, and to protect public health and the environment by minimizing public exposure to unsanitary conditions. By controlling the discharge of fats, oils and grease to the wastewater collection system, excessive buildup in sewer lines can be lessened, thereby increasing the system’s operating efficiency and reducing the number of sewer line blockages and overflows.

(c) General FOG Discharge Prohibitions. No Food Service Establishment shall discharge or cause to be discharged into the sewer system FOG that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer lateral which connects the Food Service Establishment to the sewer system.

(d) Specific FOG Prohibitions. The following specific prohibitions shall apply to all Food Service Establishments:

(1) Discharge of any FOG-containing wastewater that is not connected to a grease removal device is prohibited, unless a waiver has been granted in accordance with Subsection (l).

(2) Non-grease laden sources such as, but not limited to, hand-wash sinks, toilets, urinals, and stormwater, shall not be connected to a grease removal device.

(3) No dishwasher shall be connected to a grease trap.

(4) Discharge of wastewater with temperatures in excess of 140° F (60°C) into any grease trap is prohibited.

(5) Garbage disposals (food grinders) shall be prohibited at all New Food Service Establishments. Existing Food Service Establishments shall remove all garbage disposals when they remodel or within one hundred eighty (180) days from receiving a notice from the Director to remove its garbage disposal(s) based on the Director’s finding that the FSE at any time caused or contributed to an SSO.

(6) Direct disposal of any waste cooking oil into any drain or cleanout that is connected to the sewer system is prohibited.

(7) Introduction of any additive into a grease removal device or directly into the sewer system for the purpose of emulsifying FOG, biologically/chemically treating FOG for grease remediation, or as a supplement to any grease removal device maintenance is prohibited, unless specifically authorized in writing by the Director.

(8) Discharge of any waste which has been removed from a grease removal device into the sewer system is prohibited.

(e) FOG Wastewater Discharge Permit Required. All Food Service Establishments shall obtain a FOG Wastewater Discharge Permit. Nothing in the permit is intended to relieve the

Food Service Establishment of any local, state, or federal regulation. Any denial of a permit may be appealed under Chapter 1, Article 4.

(f) Permit Application Requirements. FOG Wastewater Discharge Permit Applications shall include the following information:

(1) Name, address, telephone number, description of the Food Service Establishment and service activities.

(2) Name of any and all principals/owners of the Food Service Establishment.

(3) Name and address of property owner or lessor and the property manager where the Food Service Establishment is located.

(4) Floor, site and plumbing plans showing detailed sewer connections and grease removal devices.

(5) Specifications of all grease removal devices.

(6) Operational statement of FSE.

(7) Any other information as may be specified in the application form.

(g) FOG Wastewater Discharge Permit Conditions.

(1) FOG Wastewater Discharge Permits must contain the following:

(i) A statement that indicates the wastewater discharge permit duration.

(ii) A statement that the wastewater discharge permit is nontransferable.

(iii) A statement of applicable civil and criminal penalties for violation of permit and FOG ordinance.

(2) FOG Wastewater Discharge Permits may contain the following conditions or limits if found necessary to meet the intent of this Ordinance by the Director:

(i) Limits on discharge of FOG and other pollutants.

(ii) Requirements to install, operate, and maintain adequate pretreatment devices including grease removal devices.

(iii) Requirements for proper operation and maintenance of all pretreatment devices.

(iv) Grease removal device maintenance frequency and schedule.

(v) Requirements for implementing, maintaining, and reporting on the status of Best Management Practices.

(vi) Requirements for maintaining and submitting logs and records, including waste hauling records and manifests and to have such records available for inspection.

(vii) Requirements to self-monitor.

(viii) Additional requirements as may be determined to be reasonably appropriate by the Director or as specified by other Regulatory Agencies to protect the collection system.

(ix) Other terms and conditions, which may be reasonably applicable to ensure compliance with the FOG Control Program.

(h) FOG Wastewater Discharge Permit Modifications. FOG Wastewater Discharge Permit modifications are subject to Section 6-335 (h) of this Article consistent with the terms, requirements and policies in this section.

(i) Best Management Practices. All Food Service Establishments shall implement Best Management Practices (BMPs) in an effort to minimize the discharge of FOG to the sewer system, including, but not limited to, the following, as applicable:

(1) Installation of Drain Screens. Drain screens shall be installed on all drainage pipes in food preparation areas.

(2) Segregation and Collection of Waste Cooking Oil. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to insure that they do not leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil.

(3) Disposal of Food Waste. All food waste should be disposed of directly into the trash or garbage and not into sinks and shall be disposed of in a manner that will ensure against leakage in the trash container or anywhere else.

(4) Employee Training. Employees of the Food Service Establishment shall be trained by ownership/management periodically as specified in the FOG wastewater discharge permit on the following subjects:

(i) Dry-wiping pots, pans, dishware and work areas before washing to remove grease.

(ii) Properly disposing food waste and solids in plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.

(iii) The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.

(iv) Properly disposing grease or oils from cooking equipment into a proper grease receptacle without spilling.

Training shall be documented along with employee signatures. Training records shall be available for review at any time by authorized representatives of the city.

(5) Maintenance of Mechanical Exhaust Ventilation Filters. Filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning exhaust filters shall be disposed of properly.

(6) Kitchen Signage. Best management and waste minimization practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.

(j) FOG Pretreatment Required for New and Existing Food Service Establishments. Food Service Establishments are required to install, operate and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this section, subject only to the variance and waiver provisions and other exceptions of this section. The grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from Food Service Establishments prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and cleanup areas of Food Service Establishments that are sources of FOG discharges shall be connected to the grease interceptor.

(1) New Food Service Establishments shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system.

(2) Existing Food Service Establishments shall install grease interceptors in any of the following circumstances:

(i) When the FSE changes ownership;

(ii) When any change in operation results in or has the potential to result in the increase of the amount of FOG generated and/or discharged by FSE in an amount that alone or collectively causes or creates a potential SSO to occur;

(iii) When it is determined by the Director that the FSE caused or contributed to grease-related blockages in the sewer system, has sewer laterals connected to hot spots, or has been determined to contribute significant FOG to the sewer system, based on inspection and sampling;

(iv) During a remodel;

(v) Any other time the Director reasonably determines that installation of a grease interceptor is necessary to avoid an adverse impact to the sewer system.

(3) Any Existing FSE that receives a notice from the Director to install a grease interceptor must install the interceptor within 180 days unless otherwise required by the Director.

(k) Variance of Grease Interceptor Requirement. Notwithstanding any other provision in this section, an Existing FSE may obtain a variance, at the Director's discretion, from the grease interceptor requirement to allow alternative pretreatment technology that is equally effective in controlling the FOG discharge in lieu of a grease interceptor. One such type of alternative

pretreatment technology is a grease trap. Consideration of granting the variance will be based on the following:

(1) There is insufficient space for installation and/or maintenance of a grease interceptor.

(2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection line or the public sewer.

(3) The FSE can demonstrate, to the satisfaction of the Director, that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling FOG. In addition, the FSE must be able to demonstrate, after installation of the proposed alternative pretreatment technology, its continued ability to effectively control FOG discharge.

The variance may be rescinded if subsequent monitoring shows accumulation of FOG in the sewer lateral or the collection system downstream of the Food Service Establishment's connection or if the Food Service Establishment caused or contributed to a Sanitary Sewer Overflow. A grease interceptor must be installed within 180 days of the rescission of a variance. Denial or revocation of a variance may be appealed pursuant to Chapter 1, Article 4.

(l) Waiver from Grease Removal Device Requirement. When granting a variance is not possible because the installation of a grease interceptor is not feasible and no equivalent alternative pretreatment can be implemented, an FSE may apply for and be granted a conditional waiver with the imposition of line maintenance cost recovery charges as established in the Master Fee Schedule. An FSE requesting a waiver must demonstrate that it has negligible FOG discharge and insignificant impact to the sewer system. Although a waiver may be granted, the Director may impose additional requirements including, but not limited to, the requirement to provide space and plumbing segregation for future installation of a grease interceptor. Denial or revocation of a waiver may be appealed pursuant to Chapter 1, Article 4.

(m) Cost Recovery. All costs incurred for cleaning the sewer line to remove FOG buildup caused or contributed to by an FSE shall be reimbursed to the city by the FSE. Factors for determining responsible parties for cost recovery charges include the FSEs that are discharging into the affected sewer line, the presence of grease removal devices or alternative pretreatment in the FSE, proper maintenance of grease removal devices by the FSE, implementation of BMPs, and any waivers or variances granted.

(n) Drawing Submittal Requirements. At the time of obtaining a FOG Wastewater Discharge Permit or upon request by the Director:

(1) FSEs may be required to submit copies of design and as-built facility site plans, mechanical and plumbing plans and details to show all sewer locations and connections. The documents shall be in a form acceptable to the Director for review of existing grease control devices, monitoring facilities, metering facilities and operating procedures. The review of plans and procedures shall in no way relieve the FSE of the responsibility to modify the facilities or procedures in the future, as necessary to produce an acceptable discharge and to meet the requirements of this FOG Control Program.

(2) FSEs may be required to submit a schematic drawing of the grease removal device or alternative pretreatment, piping and instrumentation diagram, and wastewater characterization report.

(3) At the Director's discretion, all drawings and/or reports may be required to be prepared by a California Registered Civil, Chemical, or Electrical Engineer.

(o) Grease Interceptor Requirements. Any FSE that is required to provide FOG pretreatment shall install operate and maintain an approved type and properly sized grease interceptor, or other grease removal device authorized under an approved variance, necessary to maintain compliance with the purpose of the FOG Control Program.

(1) Approved grease interceptor sizing and installation shall conform to the latest approved edition of the California Uniform Plumbing Code.

(2) Grease interceptors shall be constructed in accordance with the design approved by the Director and shall have a minimum of two compartments with fittings designed for grease retention.

(3) Grease interceptors shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning and removal of accumulated grease.

(i) Grease interceptors may not be installed in any part of the building where food is handled.

(ii) If a location is not available on the property of the FSE, a street encroachment permit may be requested to authorize installation of a grease interceptor in a public access area such as the street or sidewalk area.

(iii) There will be no obstruction from landscaping or parked vehicles, with the exception of parked vehicles in a public access area as granted through a street encroachment permit.

(4) Access manholes, with a minimum diameter of twenty-four (24) inches, shall be provided over each grease interceptor chamber and sanitary tee. The manholes shall also have readily removable covers to facilitate inspection, grease removal and wastewater sampling activities.

(5) The original design of the grease interceptor shall not be modified unless the manufacturer recommends the modification in writing.

(i) Any modification will be at the Food Service Establishment's expense.

(ii) The city is not liable for any non-compliance as a result of any modification.

(p) Grease Interceptor Maintenance Requirements. Grease interceptors shall be maintained in efficient operating condition by periodic complete removal of all contents of the devices including wastewater, accumulated FOG, floating materials, sludge and solids.

(1) No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.

(2) Food Service Establishments that are located in an area that is considered to be a hot spot will be required to submit data and information necessary to establish a maintenance frequency for their grease interceptor.

(3) The maintenance frequency for all Food Service Establishments with a grease interceptor shall be determined in one of the following methods:

(i) Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed the 25% Rule. Regardless, the interval between cleaning shall not exceed six (6) months.

(ii) The owner/operator of a Food Service Establishment may submit a request to the Director asking for a change in the maintenance frequency at any time. The Food Service Establishment has the burden of responsibility to prove that the change reflects actual operating conditions based on the average FOG accumulation over time, and meets the requirements of the 25% Rule. The Food Service Establishment must also show that it is in full compliance with the conditions of its FOG Wastewater Discharge Permit and this section. Upon approval by the Director, the FOG Wastewater Discharge Permit will be modified accordingly to reflect the change in maintenance frequency.

(iii) If the grease interceptor contains, at any time, FOG and solids accumulation that exceeds the 25% Rule, the Food Service Establishment shall be required to have the grease interceptor serviced immediately so that all FOG, sludge and other materials are completely removed from the interceptor. If necessary, the Food Service Establishment may be required to increase the maintenance frequency of the grease interceptor from its current frequency.

(4) Wastewater, accumulated FOG, floating materials, sludge, solids, and other materials removed from the grease interceptor shall be disposed offsite properly by licensed waste haulers in accordance with federal, state, and/or local regulations.

(q) Grease Trap Requirements. Grease traps may be authorized by the Director through a variance under Subsection (k) with the following conditions:

(1) Grease traps shall be installed in waste lines leading from drains, sinks and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.

(2) Grease traps shall be properly sized and installed in accordance with the latest approved edition of the California Uniform Plumbing Code.

(3) The original design of the grease trap shall not be modified unless the manufacturer recommends the modification in writing.

(i) Any modification will be at the FSE's expense.

(ii) The city is not liable for any non-compliance as a result of any modification.

(4) Grease traps shall be maintained in efficient operating conditions by removing accumulated grease. The interval between cleaning will be established by the Director, but shall not exceed two (2) weeks. Baffles shall be removed and cleaned during the maintenance process, when applicable.

(5) Grease traps shall be kept free of all food residues and any FOG waste removed during the cleaning and scraping process.

(6) Grease traps shall be inspected periodically to check for leaking seams and pipes and for effective operation of the baffles and flow regulating devices.

(7) Grease traps and their baffles shall be maintained free of all caked on FOG and waste.

(8) Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.

(9) The temperature of any water entering a grease trap shall not exceed 140° F (60° C).

(r) Monitoring Requirements.

(1) The Director may require, through the FOG Wastewater Discharge Permit or at any time, an FSE to construct and maintain in proper operating condition, at the FSE's sole expense, flow monitoring, constituent monitoring, and/or sampling devices.

(2) The location of monitoring or metering devices shall be subject to approval by the Director.

(3) At all times, FSEs shall provide immediate, clear, safe and uninterrupted access to authorized representatives of the city to all monitoring and metering devices.

(4) FSEs may be required by the Director to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of any grease removal device and compliance with this section.

(s) Record Keeping Requirements. FSEs shall keep all records, including manifests, receipts and invoices of all cleaning and maintenance of grease removal devices. All records shall be made available to authorized representatives of the city upon request. In addition to the above mentioned documents, records include logbooks of maintenance activity, BMPs and employee training, sampling data, spill reports, line cleaning reports, and any other information deemed appropriate by the Director to ensure compliance with the FOG Control Program and this section.

SEC. 6-322. RIGHTS OF INSPECTION AND SAMPLING.

(a) **Rights of Entry.** The Control Authority shall have the right to enter premises of any user to determine whether the user is complying with all requirements of this ordinance and any

wastewater discharge permit or order issued hereunder. Owners or occupants of premises where wastewater is created or discharged shall allow the EPA, the State, the city or the city's representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling or record examination, or in performance of any of their duties.

(b) **Rights to Monitor.** The Control Authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, compliance monitoring and/or metering operations. The Control Authority shall also have the right to conduct unbeknown surveillance monitoring of the user's wastewater discharge offsite of the facility premises, taking into consideration all potential contributors to the same wastestream, and enforcing all applicable provisions of this article as necessary. Nothing provided herein is intended to limit the rights of the city in any way in regards to its use and control of the city's facilities.

(c) **Access to Facilities.** Where a user has security measures in force which would require proper identification and clearance before entry onto the premises, the user shall make necessary arrangements with his security guards so that, upon presentation of suitable identification, personnel from the Control Authority will be permitted to enter without delay for purposes of performing their specific responsibilities.

(d) **Obstructions to Access.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled or monitored shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) **Access Delayed or Refused.** Unreasonable delays in allowing the Control Authority access to a user's premises or refusing access to the Control Authority to a user's premises shall be a violation of this ordinance.

(f) **Administrative Inspection Warrant.** If an owner, occupant or agent refuses permission to enter, or inspect, the Control Authority may seek an Administrative Inspection Warrant pursuant to the procedures provided in Code of Civil Procedure Sections 1822.50 through 1822.59 as amended, to perform the duties imposed upon the Control Authority pursuant to this article. (Orig. Ord. 4279; Am. Ord. 98-91, § 7, 1-1-99; Am. Ord. 2002-73, § 11, eff. 1-23-02).

SEC. 6-323. ENFORCEMENT.

(a) **Control Authority.** The Control Authority shall be responsible for the enforcement of this article. The Control Authority is responsible for preparing, adopting, administering and enforcing the Enforcement Response Plan.

(b) **Violations.** A person is in violation of this article whenever the person violates or causes a violation of any of the terms of this article, any condition or provision of a permit issued pursuant to this article, any rule adopted by the city to administer or enforce this article, and any notice, order, demand issued by Control Authority pursuant to an Enforcement Response Plan. Any violation of this article shall be a public nuisance.

(c) Available Remedies for Violations. Notwithstanding any other remedies available in the code or in state or federal law, the Control Authority may do any of the following to address a violation of this article:

- (1) Take action pursuant to an Enforcement Response Plan.
- (2) Issue a notice of compliance.
- (3) Issue an administration citation to the user and/or the person or entity that caused the violation.
- (4) Modify or revoke the user's permit.
- (5) Cease city utility service pursuant to a show cause hearing.
- (6) Request City Attorney's Office to pursue civil and/or criminal action pursuant to local, state or federal law, including, but not limited to California Government Code Section 54740.

(d) Enforcement Response Plan. The Control Authority, in his or her discretion, may take action pursuant to an Enforcement Response Plan as appropriate to the situation. Any action taken pursuant to an Enforcement Response Plan shall be pursuant to the provisions of the Enforcement Response Plan, except that to the extent the Control Authority issues an administrative citation or issues any order that requires the user to cease discharging all waste to the City's sewer system, the user may appeal the citation or the order pursuant to the procedures in Chapter 1, Article 4. Filing an appeal under Chapter 1, Article 4 does not stay enforcement of the citation or order pursuant to Subsection 1-408(f). If a user has an appeal right pursuant to this subsection, the Control Authority shall notice the user of his/her/its appeal right at the time the administrative citation and/or order ceasing use is issued.

(e) Administrative Citation. The Control Authority may issue an administrative citation with a fine of up to twenty-five thousand dollars (\$25,000) per violation per day or as provided in the Master Fee Schedule. The Master Fee Schedule may provide for a scheme of penalties for types and/or reoccurrence of violations. Administrative citations shall be issued pursuant to Section 1-308. In addition to any other means of collection, the penalty may be collected through the user's city issued utility bill pursuant to Article 1 of Chapter 6 (including discontinuance of service upon non-payment).

(f) Modify or Revoke Permit. The Control Authority may modify or revoke a user's discharge permit pursuant to Section 6-335.

(g) Show Cause Hearing. Terminating Utility Service. If a violation is not corrected by timely compliance of an order, notice or demand pursuant to Enforcement Response Plan or pursuant to Subsection (c)(2), above, the Control Authority may order any user to show cause before the Director why the user's water and sewer services should not be terminated, in accordance with the following:

- (1) Notice of Show Cause Hearing. A notice shall be served on the user, specifying the time and place of a hearing to be held by the Director regarding the violation, and directing the offending party to show cause before the Director why an order should not be made directing the termination of water and/or sewer service. The

notice of the hearing shall be served personally or by certified mail, return receipt requested, at least ten days before the hearing. Service may be made on an authorized representative of the user, or the occupant(s) and/or owner(s) of record of the property.

(2) Hearing. The Director, or his/her designee, shall conduct the hearing and take the evidence of the user and city staff and shall provide the user a reasonable period of time to present his/her/its position.

(3) Director Action. After the hearing, the Director may do any of the following based upon substantial evidence that the action is necessary to protect the public health, safety and welfare and/or the city's sewer system:

(i) An order to the user and city staff, directing that the water service be discontinued and/or the sewer connection severed;

(ii) An order to the user and city staff, that following a specified time period, the water service be discontinued and/or the sewer connection severed unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate to ensure compliance with this article.

(iii) Any other action within the authority of the Control Authority.

(4) Subject to Appeal. Any order under subparts (3)(ii) or (3)(iii), above, is subject to appeal pursuant to Article 4 of Chapter 1. Users shall be notified of their appeal at the time the Director issues the order.

(5) Failure to Appear. The Director may direct staff to immediately disconnect the water and/or sewer service if the user fails to appear for the hearing or otherwise respond to the notice of the show cause hearing and if the Director finds it is necessary to protect the public health, safety and welfare and/or the city's sewer system.

(6) Process for Disconnection from Water or Sewer. The procedures for water service disconnection shall be in accordance with the provisions of Chapter 6, Article 1, of this Code, and severance of sewer connection shall be in accordance with guidelines established by the Director.

(7) Reinstate Utility Service. The Control Authority shall reinstate water service and approve reconnection to the regional sewer system upon proof of the elimination of the non-complying discharge. Reinstatement of water service shall be in accordance with Chapter 6, Article 1, of this Code, and reconnection to the regional sewer system shall be in accordance with guidelines established by the Director.

(h) Fraud or False Statements. Pursuant to the provisions of 18 U.S.C. §§1001, relating to fraud and false statements, and the provisions of Section 309(c)(2) of the Act governing false statements, representations or certification in reports required under the Act, any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained for this article or a Wastewater Discharge Permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not

more than ten thousand dollars (\$10,000) or by imprisonment for not more than six (6) months, or by both.

(i) **Cost Reimbursement.** All costs incurred by the city by any means, whether direct or indirect, as a result of a user failing to comply with any provision of this article shall be reimbursed to the city by that user. Costs shall be collected pursuant to Article 5 of Chapter 1, except that in addition to the means of collection provided in the Cost and Penalty Recovery Ordinance, the city may also seek collection through the user's city issued utility bill pursuant to Article 1 of Chapter 6 (including discontinuance of service upon non-payment).

(j) **Remedies Nonexclusive.** The remedies provided for in this section are not exclusive or mutually exclusive. The Control Authority may take any, all, or any combination of the remedies provided in this section, this code and/or State or Federal law against a noncompliant user. While enforcement will generally be in accordance with the Enforcement Response Plan, the Control Authority, in his or her discretion, is not limited by the Enforcement Response Plan from taking other actions to enforce the provisions of this article.

(k) **Member Agency Responsibility.** Pursuant to agreements with the city, Clovis and other member agencies of the city's POTW shall incorporate into their ordinances, regulations or both, and shall perform, the same enforcement duties defined in this article, and shall enforce the same prohibitions on discharge, reporting requirements, and wastewater discharge permit requirements as are contained in this article. (Orig. Ord. 4279; Am. Ord. 76-33, § 2, eff. 5-9-76; Am. Ord. 83-41, § 4, eff. 7-1-83; Am. Ord. 89-10, § 2, eff. 2-17-89; Am. Ord. 92-5, §§ 1--10, 2-21-92; Am. Ord. 98-91, §§ 8--14, 1-1-99; Am. Ord. 2002-73, § 12, eff. 1-23-02, Am. Ord. 2008-33, eff. 6-22-08).

SEC. 6-324. EMERGENCY SUSPENSIONS.

The Control Authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) **Immediate Cessation upon Notification.** Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution to the sewer system. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Control Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Control Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings are initiated against the user.

(b) **Statement of Cause and Preventative Measures.** A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Control Authority prior to the date of any show cause or termination hearing.

(c) **Prior Hearing Not Required.** Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Added Ord. 2002-73, § 13, eff. 1-23-02).

SEC. 6-325. TERMINATION OF DISCHARGE.

In addition to the provisions in Section 6-335(k), any user who violates the following conditions is subject to discharge termination:

- (a) Violation of Wastewater Discharge Permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- (e) Failure to report an accidental or slug discharge as required in Section 6-336(k) of this article; or
- (f) Violation of any pretreatment standard or requirement, or any terms of the Wastewater Discharge Permit, or this ordinance. (Added Ord. 2002-73, § 15, eff. 1-23-02).

SEC. 6-326. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Control Authority shall publish at least annually, in a newspaper of general circulation in the Fresno area, a list of all users which, at any time during the previous twelve months were in significant noncompliance with applicable pretreatment requirements, as defined in 40 C.F.R. § 403.8(f)(2)(vii). The notification shall include the parameter violated, the enforcement actions taken by the Control Authority, and the corrective actions taken by the user(s). (Added Ord. 2002-73, § 15, eff. 1-23-02).

SEC. 6-327. DISCHARGE PROHIBITIONS.

(a) **General Prohibitions.** No user shall introduce or cause to be introduced, directly or indirectly, to the POTW any pollutant or wastewater which will cause Pass Through or Interference. These general prohibitions apply to all users of the POTW whether or not the users are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(b) **Specific Prohibitions.** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or

explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, wastestreams with a closed- cup flashpoint of less than 140° F or 60° C.

(2) Any wastewater with a pH less than 6 or greater than 12.4, or having any corrosive or detrimental characteristic that may cause injury to wastewater treatment or maintenance personnel, or may cause damage to structures, equipment or other physical facilities of the regional sewer system.

(3) Solid or viscous substances which may cause obstruction to the flow in the POTW resulting in Interference.

(4) Any pollutants, including oxygen-demanding pollutants (e.g., BOD) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference to the POTW.

(5) Any wastewater containing heat in amounts which will inhibit biological activity in the POTW resulting Interference, but in no case heat in such quantities that will cause the temperature at the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(9) Any other industrial wastes, unless such wastes have first been passed through screens having openings not exceeding one-half inch in dimension; provided, however, that the Control Authority, by written permit, may authorize the discharge into the regional sewer system of such wastes if they are first passed through screens having larger openings, if the Control Authority is satisfied that such larger openings will provide screening efficiency and effectiveness equal to or better than that provided by the smaller openings.

(10) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

(11) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(12) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and

reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the SolidWaste Disposal Act, the Clean Air Act or the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(13) Any substance which will cause the POTW to violate the Waste Discharge Requirements mandated by the state.

(14) Any wastewater with objectionable color not removed in the treatment process.

(15) Any wastewater containing radioactive material in sufficient quantity to interfere with any treatment process or constitute a hazard to humans or animals.

(16) Any wastewater containing substances that may precipitate, solidify or become viscous at temperatures between 40°F (4.4°C) and 100°F (37.7°C)

(17) Any recognizable portions of the human anatomy.

(18) Any storm water, surface water, groundwater, roof runoff, or subsurface drainage which is acceptable to be discharged to other facilities where such facilities are available.

(19) Any cooling water which is sufficiently clean to be discharged to some other suitable facility, such as a storm drain, where such facilities are available.

(20) Any pool water, spa water, or pond water which is acceptable to be discharged to other facilities where such facilities are available.

(21) Any malodorous substance such as hydrogen sulfide or any other substance which will cause offensive odors in the sewer system or at the treatment plant.

(22) Any substance which is not amenable to treatment by the processes employed at the treatment plant.

(23) Any substance which will cause corrosive structural damage to the POTW.

(24) Any slug loading.

(25) Any wastewater that comes into contact with any process utilizing tetrachloroethene.

(26) Wastewater causing two successive readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five per cent (5%), or any single reading over ten per cent (10%) of the Lower Explosive Limit of the meter.

(c) Compliance by existing sources with the Federal Categorical Pretreatment Standards shall be within three (3) years of the date the standard is promulgated unless a shorter

compliance time is specified in the appropriate subpart of 40 C.F.R., Chapter 1, Subchapter N. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The Director shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.

(d) **Local Limits.** The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

Parameter	Limit, Daily Average	Unit
Arsenic	0.32	mg/L
Cadmium	0.12	mg/L
Chromium, Total	6.7	mg/L
Copper	2.5	mg/L
Cyanide, Total	0.77	mg/L
Lead	1.2	mg/L
Mercury	0.05	mg/L
Nickel	1.3	mg/L
Silver	1.1	mg/L
Zinc	2.1	mg/L
Phenolic Compounds	300	mg/L
Trichloroethene	0.12	mg/L
Tetrachloroethene	0.77	mg/L
BETX*	20	mg/L
Oil and Grease	700	mg/L

*Benzene, ethylbenzene, toluene, and xylene as a single constituent or as a cumulative total.

(e) **Application of Limits.** The limits in Section 6-327(d) apply at the point where the wastewater is discharged to the POTW (also called "end of pipe"). All concentrations for metallic substances are for "total" metals unless indicated otherwise.

(f) **Equivalent Mass Limits.** The Control Authority may impose mass limitations in addition to, or in place of, the concentration-based limitations listed in Section 6-327(d).

(g) **Contributions Causing Pass Through or Interference.** When the Control Authority determines that a user is contributing to the POTW any of the specific prohibitions listed in

Section 6-327(b) in such amounts as to cause pass through or interference, the Control Authority shall:

- (1) Advise the user(s) of the impact of the contribution on the POTW, and
- (2) Develop effluent limitation(s) for such user(s) to correct the interference with the POTW.

(h) **Best Management Practices.** The Control Authority may develop Best Management Practices (BMPs) to implement the general prohibitions, specific prohibitions, and local limits listed in this section. (Orig. Ord. 3642 and 4279; Am. Ord. 6940, 1967; Am. Ord. 71-105, 1972; Am. Ord. 76-33, § 3, eff. 5-9-76; Am. Ord. 83-41, § 5, eff. 7-1-83; Am. Ord. 91-14, §§ 6, 7, eff. 3-15-91; Am. Ord. 92-5, §§ 11, 12, eff. 2-21-92; Am. Ord. 98-91, §§ 15--17, 1-1-99; Am. Ord. 2002-73, § 16, eff. 1-23-02; Am. Ord. 2008-33, eff. 6-22-08).

SEC. 6-328. STATE REQUIREMENTS AND LIMITATIONS.

State requirements and limitations on discharge shall apply in any case where they are more stringent than federal requirements and limitations or those in this article. (Added Ord. 83-41, § 6, eff. 7-1-83; Ord. No. 91-14, §§ 8--11, eff. 3-15-91; Am. Ord. 98-91, §§ 18, 19, 1-1-99; Am. Ord. 2002-73, § 17, eff. 1-23-02).

SEC. 6-329. RIGHT OF REVISION.

The city reserves the right to establish by ordinance or in wastewater discharge permits, more stringent standards, limitations, or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 6-301. (Added Ord. 2002-73, § 18, eff. 1-23-02).

SEC. 6-330. DILUTION.

No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Added Ord. 2002-73, § 19, eff. 1-23-02).

SEC. 6-331. BYPASS.

(a) **Definition.** For the purposes of this section,

(1) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected

to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(3) "Monitoring and/or sampling equipment" shall not be considered part of a user's treatment facility.

(b) Prohibition of Bypass.

(1) Bypass is prohibited, and the Control Authority may take enforcement action against an industrial user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The industrial user submitted notices as required under Subsection (d) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in Subsection (b)(1) of this section.

(c) Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections (b) and (d) of this section.

(d) Notice.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority at least ten (10) days before the date of the bypass, if possible.

(2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours. (Added Ord. 2002-73, § 20, eff. 1-23-02).

SEC. 6-332. VIOLATIONS OF DISCHARGE PROHIBITIONS.

Any user who intentionally or negligently violates all or part of Sections 6-327, 6-330, or 6-331 shall be in violation of this article and subject to the provisions of Section 6-323. (Added Ord. 2002-73, § 21, eff. 1-23-02).

SEC. 6-333. PENALTY ASSESSMENT.

If a user violates any of the provisions of Sections 6-327, 6-330, or 6-331 the penalty designated in the Master Fee Resolution shall be added to the user's sewer service charge. (Added Ord. 2002-73, § 22, eff. 1-23-02).

SEC. 6-334. SEWER CONNECTIONS; PREMISES OUTSIDE CITY.

(a) Persons owning or operating premises outside the city limits of the city may be granted permission to connect their property with the city sewer system.

(b) Permission to connect to the sewer system will be granted by the Director if all provisions of this article are complied with.

(c) Every permit granted for service outside the city limits of the city shall be subject to the following conditions:

(1) That payment of the applicable sewer connection charge, established by this article, shall be made before connection of the premises to the sewer.

(2) That all regulations of the city will be followed with respect to use of the city sewer system.

(3) That drainage from roofs, courts or other areas shall not be allowed to pass into the city sewer system. (Orig. Ord. 2819; Am. Ord. 75-69, § 9, eff. 7-27-75).

SEC. 6-335. WASTEWATER DISCHARGE PERMITS.

(a) **Wastewater Discharge Permit Required.** At the discretion of the Control Authority, all users proposing to connect to or contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW.

(1) All existing users connected to or contributing to the POTW on the effective date of this section must obtain a Wastewater Discharge Permit within ninety (90) days of such date.

(2) Any user proposing a new connection to the POTW shall obtain a Wastewater Discharge Permit prior to beginning discharge.

(3) Liquid Waste Haulers shall obtain a Wastewater Discharge Permit prior to transporting liquid waste to a discharge point designated by the Control Authority.

(b) **Authorization to Discharge.** The Wastewater Discharge Permit expressly authorizes a user to discharge wastewater to the POTW and is issued for that purpose. If, for any reason, a Wastewater Discharge Permit is revoked, suspended, or otherwise held invalid, authorization to discharge is terminated.

(c) **Wastewater Discharge Permit Enforceability.** Wastewater Discharge Permits shall be expressly subject to all provisions of this Code and all other applicable regulations, user charges and fees established by the city. Any violation of the terms and conditions of a Wastewater Discharge Permit shall be deemed a violation of this ordinance. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or with any other requirements of federal, state, and local law.

(d) **Authority to Deny New or Increased Contributions.** The Control Authority shall have the authority to deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the POTW by permitted and non-permitted users where such contributions do not meet applicable pretreatment standards or requirements or where such contributions would cause the POTW to violate its Waste Discharge Requirements.

(e) **Wastewater Discharge Permit Application.** All users may be required to file with the Control Authority a Wastewater Discharge Permit application in a form prescribed by the Control Authority prior to obtaining a Wastewater Discharge Permit.

(1) Users proposing a new connection to the regional sewer system shall submit a completed Wastewater Discharge Permit application at least ninety (90) days prior to connecting to or contributing to the POTW.

(2) Existing users shall apply for a permit reissuance a minimum of ninety (90) days prior to the expiration of their existing Wastewater Discharge Permit.

(3) New or existing users failing to submit a completed discharge permit application will be assessed a penalty charge as designated in the Master Fee Resolution.

(f) **Wastewater Discharge Permit Application Contents.** In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and location (if different from the address);

(2) Standard Industrial Classification (SIC) number;

(3) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(4) Number and type of employees and hours of operation of plant and proposed or actual hours of operation;

(5) Each product produced by type, amount, process or processes, and rate of production;

(6) Average daily wastewater flow rates, including daily, monthly and seasonal variations;

(7) Type and amount of raw materials processed (average and maximum per day);

(8) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;

(9) Time and duration of discharge;

(10) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 6-327(d) of this article, as determined by a state-certified laboratory. Sampling and analyses shall be performed in accordance with the techniques described in Section 6-336(l) and Section 6-336(m);

(11) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards or city effluent limitations;

(12) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards or city effluent limitations, the schedule and conditions of scheduling shall be in accordance with those described in Section 6-336(g);

(13) Any other information as may be deemed by the Control Authority to be necessary to evaluate the permit application. The Control Authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Control Authority shall issue a Wastewater Discharge Permit, subject to the terms and conditions provided herein.

(g) **Permit Conditions.** Wastewater Discharge Permits shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater Discharge Permits must contain:

(i) A statement that indicates wastewater discharge permit duration in accordance with Section 6-335(i) of this Code;

(ii) A statement that the wastewater discharge permit is nontransferable in accordance with Section 6-335(j) of this Code;

(iii) Effluent limits based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements, when applicable. These requirements shall include an

identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the regional sewer system;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on the average and minimum rate and time of discharge or requirements for flow regulations and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports (See Section 6-336);

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Control Authority, and affording the Control Authority access thereto;

(ix) Requirements for notifying the Control Authority prior to and obtaining approval of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the regional sewer system;

(x) Requirements for notifying the Control Authority of slug discharges;

(xi) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this article.

(3) Wastewater Discharge Permits for septage haulers may contain the following additional conditions:

(i) Restrictions for allowing only the discharge of domestic or residential waste from septic tanks or chemical toilets, or any other liquid waste approved by the Control Authority;

(ii) The specific location for the discharge of the approved wastes;

(iii) Requirements to prepare a manifest before transporting the waste off site, containing at a minimum:

(A) The transporter's name, address and Wastewater Discharge Permit number;

(B) The generator's name, address, telephone number and business type;

(C) The description and volume of the waste hauled;

(D) The name and location of the disposal site;

(E) The signature of the generator and the transporter;

(iv) Requirements to submit the manifest to the Control Authority prior to any discharge at the disposal site;

(v) Requirements to pay all City of Fresno sewer utility bills in full; and

(vi) Any other general and/or special operating conditions.

(h) **Permit Modifications.** The Control Authority may modify a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the POTW or city personnel;

(5) Violation of any terms or conditions of the Wastewater Discharge Permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting; or

(7) To correct typographical or other errors in the Wastewater Discharge Permit.

(i) **Duration of Permit.** Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five years at the discretion of the Control Authority. Each Wastewater Discharge Permit will indicate a specific date upon which it will expire.

(j) **Transfer of Permit.** Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, a new or changed operation, or remodel of an existing facility which is retained by the current owner.

(k) **Revocation of Permit.** The Control Authority may revoke a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(1) Failure of a user to factually report the sewage constituents and characteristics of his discharge;

(2) Failure of a user to report and get approval of significant changes in operations, site plans, floor plans, mechanical and plumbing plans or sewage constituents and characteristics prior to the commencement of any change;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusal of reasonable access to a user's premises and/or records;

(7) Failure to meet effluent limitation;

(8) Failure to pay fines or penalties;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater discharge permit application;

(12) Failure of a user to report an accidental or slug discharge as required in Section 6-336(k) of this article.

(13) Violation of any pretreatment standard or requirement, or any terms of the Wastewater Discharge Permit, or this ordinance.

(l) **Discharge Reports.** Reporting requirements shall be in accordance with Section 6-336. (Added Ord. 76-33, § 4, eff. 5-9-76; Am. Ord. 80-115, § 106, eff. 8-8-80; Am. Ord. 83-41, § 7, eff. 7-1-83; Am. Ord. 87-29, § 3, eff. 3-17-87; Am. Ord. 89-10; § 3, eff. 2-17-89; Am. Ord. 91-14, §§ 12--15, eff. 3-15-91; Am. Ord. 98-91, §§ 20, 21, 1-1-99; Am. Ord. 2002-73, § 23, eff. 1-23-02).

SEC. 6-336. REPORTING REQUIREMENTS FOR INDUSTRIAL USERS.

(a) **Baseline Monitoring Report.** Within one hundred eighty (180) days after the promulgation of a categorical pretreatment standard under Section 307(b) or (c) of the Act (33 U.S.C. §1317(b) or (c)), or one hundred eighty (180) days after the effective date of 40 C.F.R., Part 403, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into a POTW shall be required to submit to the Control Authority a report which contains the information listed in Subdivisions (1) through (8) of this subsection. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in Subdivisions (1) through (5) of this subsection. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in Subdivisions (4) and (5):

(1) The name and address of the industrial user including the name of the operator(s) and owner(s).

(2) A list of any environmental control permits held by or for the facility.

(3) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user.

(4) The measured average daily and maximum daily flow in gallons per day or, where approved by the Control Authority due to cost or feasibility considerations, a verifiable estimate of average daily and maximum daily flow to the POTW from each of the following:

(i) Regulated process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of 40 C.F.R. §403.6.

(5) A report signed and certified by a duly authorized representative of the industrial user of the nature and concentration of pollutants in the discharge from each regulated process, and identification of the applicable pretreatment standards. In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard.

(6) A statement, signed by an authorized representative of the industrial user, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(7) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standard, the shortest schedule by which the industrial user will

provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards.

(8) Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, an equivalent concentration limit will be derived using the method outlined in 40 C.F.R. §403.6.

(b) **Ninety-day Compliance Report.** Within ninety (90) days following the date of final compliance with applicable pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Control Authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified by a qualified professional.

(c) **Periodic Compliance Report.** Any industrial user subject to categorical pretreatment standards (except a non-significant categorical user), after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or the city's Wastewater Discharge Permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 6-336(a)(4), except that the Control Authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted.

(1) The Control Authority may authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(i) The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five (5) years. The user must submit a new request for the

waiver before the waiver can be granted for each subsequent control mechanism.

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed by an authorized representative and include the certification statement in Section 6-336(n). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the user's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

(v) Upon approval of the monitoring waiver and revision of the user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 C.F.R. §403.12(e)(1)."

(vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of this section or other more frequent monitoring requirements imposed by the Control Authority, and notify the Control Authority.

(vii) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(2) The Control Authority may reduce the requirement in this section to a requirement to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the Approval Authority, where the industrial user meets all of the following conditions:

(i) The industrial user's total categorical wastewater flow does not exceed any of the following:

1. 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

2. 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

3. 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by the Control Authority;

(ii) The industrial user has not been in significant noncompliance, as defined in 40 C.F.R. §403.8(f)(2)(viii) and Section 6-302(s)(9) of this Code, for any time in the past two years;

(iii) The industrial user does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period;

(iv) The industrial user must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraphs (c)(2)(i) or (ii) of this section. Upon notification, the industrial user must immediately begin complying with the minimum reporting in this section; and

(v) The Control Authority must retain documentation to support the Control Authority's determination that a specific industrial user qualifies for reduced reporting requirements under paragraph (c)(2) of this section for a period of 3 years after the expiration of the term of the control mechanism.

(d) **Flow Monitoring Report.** Significant industrial users that are not subject to categorical pretreatment standards but are subject to city effluent limitations shall submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the user must submit documentation required by the Control Authority to determine the compliance status of the user. These reports shall be based on sampling and analysis performed in the period covered by the report.

(e) **Self-monitoring Report.** When required by the Control Authority, an industrial user shall submit a report indicating the concentration of specific pollutants discharged in the effluent. The determination of said pollutants by the Control Authority shall be based on what is reasonably expected to be found at the site and the frequency of monitoring shall be based on the compliance status of the industrial user.

(f) **Detected Violation and Repeat Sampling.** If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty

(30) days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if the Control Authority performs sampling at the industrial user's facility at least once a month, or if the Control Authority performs sampling at the industrial user's facility between the time when the initial sampling was conducted and the time when the industrial user or the Control Authority receives the results of this sampling.

(g) **Compliance Schedule.** The following conditions shall apply to the schedule required by Section 6-323(b) and Section 6-336(a)(7) and elsewhere as a result of a violation of this article:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events including the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards or city effluent limitations.

(2) No increment referred to in Subdivision (g)(1) shall exceed nine (9) months.

(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

(h) **Reporting Mass Limits.** The Control Authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or city effluent limitations or requirements, or in other cases where the imposition of mass limitations is appropriate. In such cases, the reports required in Section 6-336(c) and 6-336(d) shall indicate the mass of pollutants regulated by pretreatment standards or city effluent limitations in the effluent of the industrial user.

(i) **Notification of the Discharge of Hazardous Waste.** Any industrial user discharging into the POTW a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R., Part 261 shall notify, in writing, the Control Authority, the EPA Regional Waste Management Division Director, and state hazardous waste authorities. Such notification shall follow the precepts found in 40 C.F.R. §403.12.

(j) **Reports of Changed Conditions.** Each user must notify the Control Authority of any planned significant changes to the user's operations or pretreatment system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

(1) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

(2) The Control Authority may issue a Wastewater Discharge Permit or modify an existing Wastewater Discharge Permit in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

(k) **Reports of Potential Problems.** In the case of any discharge, including, but not limited to, accidental discharges, slug loads, or discharges that are otherwise determined to be non-routine or unusual in nature, that may cause potential problems for the POTW, the industrial user shall immediately notify the Control Authority of the incident. Additionally, a written report must be provided within five (5) days. This report shall include the following information:

(1) The date and time of the event.

(2) A description of the cause of the event.

(3) The duration of the event or, if still in progress, the expected time for the event to cease.

(4) The steps to be taken to prevent recurrence of the event.

(l) **Sampling and Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of any report required pursuant to this article shall be performed in accordance with the procedures established by the EPA pursuant to Section 304(h) of the Act (33 U.S.C. §1314(h)) and contained in 40 C.F.R. Part 136, and amendments thereto, or with any other test procedures approved by the EPA, unless specifically required otherwise by the Control Authority. Where 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the Regional EPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other parties, approved by the Regional EPA Administrator.

(1) Where feasible, samples shall be collected through flow proportional composite sampling techniques. In the event flow proportional composite sampling is not feasible, the Control Authority may authorize the use of time proportional sampling or multiple grab samples collected over the course of a process day where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(i) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected over the course of a process day may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the

laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(ii) For sampling required in support of Baseline Monitoring Reports and 90-Day Compliance Reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(2) Reports shall contain results of sampling and analysis identifying the nature and concentration (or mass, where required by the Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. Sampling shall be representative of daily operations.

(3) Samples for categorical standards shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists.

(i) If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 C.F.R. §403.6(e) in order to evaluate compliance with the pretreatment standard.

(ii) Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. §403.6(e), this adjusted limit, along with supporting data, shall be submitted to the Control Authority.

(4) Samples for city effluent limitations shall be taken at a point representative of the entire discharge of all the processes emanating from an industrial user.

(m) **Sample Information.** Reports, signed and certified by a duly authorized representative of the industrial user as set forth in 40 C.F.R. §403.6(a)(2)(ii) and 40 C.F.R. §403.12(l) shall certify that such sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW and shall contain the following information:

(1) The date, exact place, method, and the time of sampling and the names of the person or persons taking the samples;

(2) The dates analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques/methods used; and

(5) The results of such analyses.

(n) **Authorized Signature.** All wastewater discharge permit applications and user reports required by this article as well as any other report that may be required by a Wastewater Discharge Permit shall be signed and certified by an authorized representative of the industrial user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(o) **Fraud and False Statements.** The reports required by this article as well as any other report that may be required by a Wastewater Discharge Permit shall be subject to the provisions of 18 U.S.C. § 1001, relating to fraud and false statements, and the provisions of Section 309(c)(4) of the Act (33 U.S.C. § 1319(c)(4)), governing false statements, representations or certifications in reports required under the Act and to the provision set forth in 40 C.F.R. § 403.6(a)(2)(ii) and 40 C.F.R. § 403.12(l).

(p) **Record Keeping.** Any industrial user subject to the reporting requirements established in this article or wastewater discharge permit (including documentation associated with Best Management Practices) shall be required to retain for a minimum of three (3) years any records of monitoring activities and results, and shall make such records available for inspection and copying by the Control Authority. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user.

(q) **Upset.** An upset shall constitute an affirmative action defense to an action brought for noncompliance with categorical pretreatment standards or city effluent limitations if the requirements of Subdivision (1) are met.

(1) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(i) An upset occurred and that the industrial user can identify the specific cause(s) of the upset.

(ii) The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(iii) The industrial user had submitted the following information to the Control Authority within twenty-four (24) hours of becoming aware of the upset. Additionally, a written report must be provided within five (5) days in accordance with Section 6-336(k).

(2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(3) In the usual exercise of prosecutorial discretion, the city's enforcement personnel will ordinarily review any claims that noncompliance was caused by an upset. No determination made in the course of the review shall constitute final city action subject to judicial review. Industrial users will have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards or city effluent limitations.

(4) The industrial user shall control production and all discharges upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to the situation, among others, where the primary source of power of the treatment facility is reduced, lost or fails.

(r) **Annual Certification by Non-Significant Categorical Industrial Users.** A facility determined to be a non-significant categorical industrial user pursuant to 40 C.F.R. §403.3(v)(2) and Section 6-302(s)(8) must annually submit the following certification statement, signed in accordance with the signatory requirements in Section 6-336(n). This certification must accompany an alternative report required by the Control Authority:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 C.F.R. _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in 40 C.F.R. §403.3(v)(2);

(b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information." (Added Ord. 2002-73, § 24, eff. 1-23-02; Added Ord. 2008-33, eff. 6-22-08).

SEC. 6-337. SEWER SERVICE FUNDS.

(a) A sewer service fund is hereby established. It shall consist of revenue from sewer service charges, revenue from sewer connection charges, and sewer facility charges as herein defined.

(b) All revenue obtained from sewer service charges shall be deposited into said fund, shall be accounted for separately, and shall be expended for the acquisition, construction, reconstruction, maintenance, and operation of wastewater facilities, including payment of interest and principal on bonds issued for such purposes, and for the implementation of the city's pretreatment program. Such funds shall not be expended for new sewers fewer than ten inches in diameter.

(c) All revenue obtained from sewer connection charges shall be deposited into said fund, shall be accounted for separately and shall be expended for the acquisition, construction and reconstruction of the POTW, including payment of interest and principal on bonds issued for

such purposes. Said fund may also provide a capital reserve for depreciation and enlargement of the POTW.

(d) All revenue obtained from sewer facility charges pursuant to section 6-310 shall be deposited into said fund, shall be accounted for separately and shall be expended as provided below:

(i) Wastewater Facilities Charges, shall be imposed, accounted for and expended consistent with section 6-304(a)(5), provided however that Wastewater Facilities Charges collected pursuant to section 6-310 shall only be used for costs which are allocable to businesses.

(ii) Trunk Sewer Charges, shall be imposed, accounted for and expended consistent with section 6-304(a)(4), provided however that Trunk Sewer Charges collected pursuant to section 6-310 shall only be used for costs which are allocable to businesses.

(e) The terms "Sewer Service Charges," "Sewer Connection Charges," and "Sewer Facility Charges" as used herein shall apply only to those funds collected for the use of the POTW and shall not be construed to affect revenues derived from the plumbing permit fees; provided, however, that nothing contained in this section shall be construed to restrict or prohibit the making of transfers from said sewer service fund for the purpose of making temporary loans to one or more of the various departments of the city; and provided further that all such temporary loans shall be restored annually to the sewer service fund on or before the last day of each fiscal year. (Added Ord. 5727, 1960; Am. Ord. 5777, 1960; Am. Ord. 5834, 1960; Am. Ord. 5841, 1960; Am. Ord. 6161, 1962; Am. Ord. 72-140, 1972; Am. Ord. 83-41, § 8, eff. 7-1-83; Am. Ord. 98-87, §§ 18, 19, 1-9-99)

SEC. 6-338. RULES AND REGULATIONS.

The Director may make such rules and regulations as are not inconsistent with the provisions of this article as may be necessary or desirable to aid in the administration or enforcement of the provisions of this article. (Added Ord. 6173, 1962; Am. Ord. 98-91, § 22, 1-1-99).

SEC. 6-339. SPECIAL DISTRICTS.

When a County waterworks, water, sewer, or other special district constructs sewer facilities within the district to city standards and commences receiving city sewer services as a unit, the lines installed by the district may remain the property of the district, in which event the city only shall service and maintain the lines, and the district may elect to bill the user in the name of the district and collect the sewer charges and remit the same to the city, in which event the user shall be charged the same as any other user outside of the city, in accordance with the rate schedule prescribed in Section 6-309(b). Where such district does not connect to the city system as a unit, or the district does not elect to bill and collect as aforesaid, the district shall dedicate and convey to the city all sewer lines owned or constructed by it. Nothing contained herein shall affect the right of the city to acquire any portion of any such system located in territory annexed to the city. (Added Ord. 69-41, 1969).

SEC. 6-340. PRIORITY OF BOND RESOLUTION.

(a) The following shall prevail over any other provisions of this article from September 1, 1974, and continuing so long as there are outstanding and unpaid any City of Fresno 1974 Sewer Revenue Bonds of Series A authorized by Council Resolution No. 74-265:

(1) All sewer connection fees and sewer service charges, together with any interest thereon, shall be deposited in the Revenue Fund.

(2) All sewer connection fees and sewer service charges, and any interest earned thereon, shall be disbursed only as provided in Section 5.04 of Resolution No. 74-265.

(b) Any money transferred from the Surplus Revenue Fund for the benefit of any municipal function other than the Project shall be repaid to the Revenue Fund together with an amount which is not less than the amount of interest that would have been earned on such money in the Surplus Revenue Fund.

(c) In construing the provisions of this section, the following terms shall have the meaning indicated:

(1) "Project" means the Project defined in Section 1.01 of Resolution No. 74-265.

(2) "Revenue Fund" means the Revenue Fund created by Section 5.03 of Resolution No. 74-265.

(3) "Sewer Connection Fees" includes "sewer connection charges."

(4) "Sewer Service Charges" includes "sewer service fees."

(5) "Surplus Revenue Fund" means the Surplus Revenue Fund created by Section 5.04 of Resolution No. 74-265. (Added Ord. 74-96, § 1, eff. 11-4-74).

SEC. 6-341. SEVERABILITY.

If any provision, paragraph, word or section of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect. (Added Ord. 83-41, § 9, eff. 7-1-83).